



# CITY COUNCIL AGENDA

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

REGULAR MEETING  
August 10, 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. City Council will recognize Pastor Emilio De La Cruz for his contributions to the community.

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**

Regular Meeting of August 3, 2009

b. **LIQUOR LICENSE - TONY'S MEXICAN FOOD**

City Council will consider a request from Mr. Antonio Vazquez, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at Tony's Mexican Food located at 301 West Main Street in Avondale. The Council will take appropriate action.

c. **CONSTRUCTION CONTRACT AWARD - CITYWIDE CONTRACTING-VAN BUREN WATERLINE, 105TH TO 103RD AVENUE**

City Council will consider a request to award a construction contract to Citywide Contracting for construction of a waterline in Van Buren Street, from 105th to 103rd Avenue in the amount of \$135,380 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

d. **RESOLUTION 2849-809 - FORT MCDOWELL YAVAPAI NATION GRANT AWARD OF \$10,000 FOR PROJECT REAL.**

City Council will consider a resolution authorizing an agreement with the Fort McDowell Yavapai Nation for the purpose of accepting grant funding for Project REAL in the amount of \$10,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**e. RESOLUTION 2848-809 - INTERGOVERNMENTAL AGREEMENT - ARIZONA DEPARTMENT OF TRANSPORTATION DATA ACCESS/EXCHANGE**

City Council will consider a resolution authorizing an Intergovernmental Agreement between the City of Avondale and the Arizona Department of Transportation to execute the Data Access Agreement for transmission and retrieval of crash data, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**f. RESOLUTION - 2852-809 - GRANT ACCEPTANCE FROM GOHS FOR POLICE DEPARTMENT CLICK IT OR TICKET PROGRAM**

City Council will consider a resolution accepting a grant in the amount of \$12,000 for the Avondale Police Department's Click it or ticket Program through the Governor's Office of Highway Safety and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**g. RESOLUTION 2850-809 – IGA REGARDING E-VERIFY AUDITS**

City Council will consider a resolution authorizing the City to enter into an Intergovernmental Agreement for Sharing the Results of the E-verify Audits with the other governmental agencies and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**h. RESOLUTION 2847-809 AND ORDINANCE 1383-809 - CHAPTER 6 -PERSONNEL POLICIES AND PROCEDURES, BENEFITS**

City Council will consider a resolution declaring a public record the document entitled "City of Avondale Employee Benefits Policy" and an ordinance adopting said document. The Council will take appropriate action.

**5 PUBLIC HEARING - PAD ZONING EXTENSION - FLEMING FARMS (Z-09-1)**

City Council will hold a public hearing and consider a request from Matt Butcher of Evergreen Development for the extension of the PAD zoning for Fleming Farms, located on a 67 acre parcel of land at the southwest corner of Avondale Boulevard and Lower Buckeye Road. The Council will take appropriate action.

**6 PUBLIC HEARING - PAD ZONING EXTENSION - AVONDALE MARKETPLACE PAD ZONING (Z-09-3)**

City Council will hold a public hearing and consider a request from Mr. Blake Carroll of Troast Properties on behalf of the property owners for an extension until March 20, 2010 of the PAD zoning for Avondale Marketplace, located on a 54.53 acre parcel of land at the northwest corner of Avondale Blvd. and McDowell Road. The Council will take appropriate action.

**7 MASTER SITE PLAN AND PARCEL 2 FINAL SITE PLAN APPROVAL EXTENSION - AVONDALE MARKETPLACE (DR-09-2)**

City Council will consider a request from Mr. Bake Carroll of Troast Properties on behalf of the property owners for an extension of the Master Site Plan and Parcel 2 Final Site Plan for Avondale Marketplace located on 38.6 acres of land at the northwest corner of Avondale Boulevard and McDowell Road. The Council will take appropriate action.

**8 ACCEPTANCE OF GRANT FUNDING FROM THE OFFICE OF COMMUNITY ORIENTED POLICING**

City Council will receive an update regarding notification of the City's selection as a Federal Grant recipient from the Community Oriented Policing Services (COPS) Hiring Recovery Program. This grant provides \$1,147,190.00 to fund five additional police officer positions for the City of Avondale. For information, discussion and direction.

**9 ORDINANCE 1384-809 - CHAPTER 15 - MISCELLANEOUS PROVISIONS AND OFFENSES, RELATING TO NOISE**

City Council will consider an ordinance amending Chapter 15, Article I, Section 15-11 of the Avondale City Code relating to noise. The Council will take appropriate action.

**10 RESOLUTION 2851-809 - CITY CENTER DESIGN GUIDELINES**

City Council will consider a resolution adopting the City Center Design Guidelines for the City Center Specific Plan. The Council will take appropriate action.

**11 AVONDALE SPORTS CENTER ARCHITECTURAL CONCEPTS**

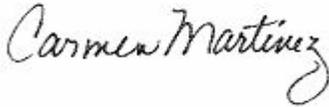
City Council will consider two Architectural design concepts for the American Sports Center retail phase and provide comments and direction to staff. For information, discussion and direction.

**12 EXECUTIVE SESSION**

- a. The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City Attorney regarding the Council's position regarding (i) the Hummingbird condemnation litigation, (ii) modifications to economic development agreements for (a) the auto mall and (b) Hyatt Hotels and (iii) threatened litigation relating to former employee.
- b. The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(7) Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property for (i) a drainage project and (ii) traffic signal and roadway improvements.

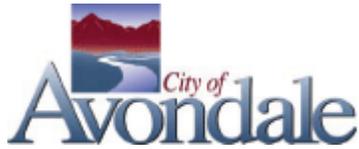
**13 ADJOURNMENT**

Respectfully submitted,



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:**

Recognition of Pastor Emilio De La Cruz

**MEETING DATE:**

August 10, 2009

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

At the request of Mr. Steve Jackson, a long time resident, the Mayor will be recognizing the dedicated service to our community of Pastor Emilio De La Cruz of Avondale Christian Assembly Church.

**BACKGROUND:**

Pastor De La Cruz has been in ministry for 30 years of which 20 have been at Avondale Christian Assembly Church. Pastor De La Cruz has served in many roles including; youth pastor, assistant pastor and Senior pastor.

One of the Church's strongest ministries is to youth. With Avondale Christian Assembly Church located in Old Town Avondale, the Church reaches out to at-risk youth and their families through special ministries. These ministries include a sports ministry and a fine arts ministry where kids learn choreography and drama. Pastor De La Cruz has been an exemplary community leader and role model, and his guidance of the Church's mission has made a tremendous difference in the lives of the young people in our community.

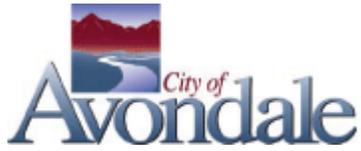
**RECOMMENDATION:**

No recommendation as this is a Recognition Item.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**  
APPROVAL OF MINUTES

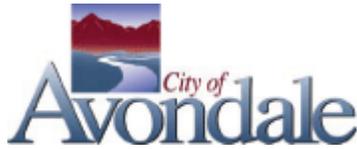
**MEETING DATE:**  
August 10, 2009

**TO:** Mayor and Council  
**FROM:** Carmen Martinez  
**THROUGH:** Charlie McClendon, City Manager

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Liquor License - Tony's Mexican Food

**MEETING DATE:**

August 10, 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. Antonio Vazquez, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at Tony's Mexican Food, 301 West Main Street.

**DISCUSSION:**

The City Clerk's Department has received an application for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors from Mr. Antonio Vazquez for Tony's Mexican Food located at 301 West Main Street, Avondale, Arizona. This is a new license being submitted due to a change in the organization of the business which is now known as Tony's Café, LLC. The required fee of \$1,100.00 has been paid.

As required by state law and city ordinance, the application was posted from July 16, 2009 through August 5, 2009 and a notice was published in the West Valley View on July 21st and 31st. No comments were received. The Arizona Department of Liquor License and Control has accepted the submitted application as complete.

The Development Services, Finance, Fire, and Police Departments have reviewed the application and are recommending approval. Their comments are attached.

**RECOMMENDATION:**

Staff recommends that the City Council approve a request from Mr. Antonio Vazquez, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at Tony's Mexican Food, 301 West Main Street.

**ATTACHMENTS:**

Click to download

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

# ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

NO

109 JUN 23 Licr. Dept 800 W Washington 5th Floor  
Phoenix AZ 85007-2934  
(602) 542-5141

109 MAY 20 Licr. Dept PH 1 25

## 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 Restaurant

LICENSE #: 12073559 12078075

Department Use Only

1. Type of License: Alcoholic Beverage Total fees attached: \$

**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: MP Vazquez Antonio Najera  
(Insert one name ONLY to appear on license) Last First Middle
2. Corp./Partnership/L.L.C.: Tony's Cafe, L.L.C.  
(Exactly as it appears on Articles of Inc. or Articles of Org.)
3. Business Name: Tony's Mexican Food B10/864  
(Exactly as it appears on the exterior of premises)
4. Principal Street Location: 301 W. main St. Avondale AZ Maricopa 85323  
(Do not use PO Box Number) City County Zip
5. Business Phone: 602-932-0411 Daytime Contact: Maria Vazquez 602-796-5316 2623-932-4853
6. Is the business located within the incorporated limits of the above city or town?  YES  NO
7. Mailing Address: 301 W. main St. Avondale AZ 85323  
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: 100 100 48 248  
Application Interim Permit Agent Change Club Finger Prints \$ 248  
TOTAL OF ALL FEES

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

Accepted by: FLU Date: 7-2-9 Lic. # 12078075

**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. 12073559
4. Is the license currently in use?  YES  NO If no, how long has it been out of use? \_\_\_\_\_

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

I, Antonio Najera Vazquez 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.

x Antonio Najera Vazquez  
(Signature)

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

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



2 day of July, 2009  
Day Month Year  
Jill B. Wells  
(Signature of NOTARY PUBLIC)

**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

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.

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
Vazquez	Family	Trust	member	301W Main St. Avondale, AZ	85323
Trustee: Antonio	Najera	Vazquez			
Trustee: Maria	Antonia	Vazquez			

(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
Vazquez	Family	Trust	100%	301W Main St Avondale AZ	85323
Trustee: Antonio	Najera	Vazquez			
Trustee: Maria	Antonia	Vazquez			

(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

AMENDMENT

(ATTACH ADDITIONAL SHEET IF NECESSARY)

**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.*

1. Name of Corporation/L.L.C.: Tony's Cafe, L.L.C.  
 (Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: 4-25-08 State where Incorporated/Organized: Arizona
3. AZ Corporation Commission File No.: L14458153 Date authorized to do business in AZ: \_\_\_\_\_
4. AZ L.L.C. File No.: L14458153 Date authorized to do business in AZ: 2-2-1970
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
Vazquez	Antonio	Najera	member manager		
Vazquez	Maria	Antonia	member manager		

(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
Vazquez	Antonio	Najera	49%		
Vazquez	Maria	Antonia	51%		

(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.

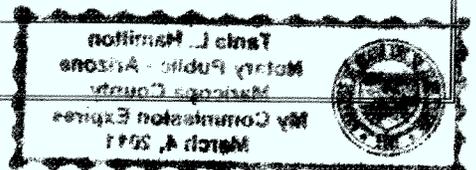
1. Name of Club: \_\_\_\_\_ Date Chartered: \_\_\_\_\_  
 (Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)

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. Use Form Lic 0110.

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.

(print full name)

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.

(print full name)

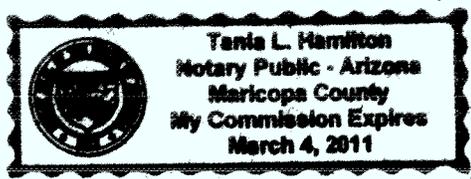
(X) Antonio Vargas  
(Signature of CURRENT LICENSEE)

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

7<sup>th</sup> day of May 2009  
Day Month Year

Tania L. Hamilton  
(Signature of NOTARY PUBLIC)

My commission expires on: 03-04-2011



2009 AUG 4 Ligr. Lic. #M1071d

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

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

- 1. Current Business: 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: 2,802 ft. Name of school Michael Anderson Elementary School  
Address 45 South 3rd Avenue, Avondale, AZ 85323  
City, State, Zip \_\_\_\_\_

2. Distance to nearest church: 3,792 ft. Name of church Avondale Christian Assembly  
Address 531 East Main Street, Avondale, AZ 85323  
City, State, Zip \_\_\_\_\_

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

4. If the premises is leased give lessors: Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

4a. Monthly rental/lease rate \$ \_\_\_\_\_ What is the remaining length of the lease \_\_\_ yrs. \_\_\_ mos.

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

5. What is the total **business** indebtedness for this license/location excluding the lease? \$ \_\_\_\_\_  
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)? Restaurant

**AMENDMENT**

**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 23 Licr. Dept PM 2:13

09 MAY 20 Licr. Dept PM 1:26

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: 2 miles Name of school Michael Anderson  
Address 45' S, 3rd Ave Avondale 85323  
**SEE AMENDMENT** City, State, Zip

2. Distance to nearest church: 3 miles Name of church Saint John Vianney  
Address 539 E La Pasada Blvd Goodyear 85338  
City, State, Zip

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

4. If the premises is leased give lessors: Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

4a. Monthly rental/lease rate \$ \_\_\_\_\_ What is the remaining length of the lease \_\_\_ yrs. \_\_\_ mos.

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

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

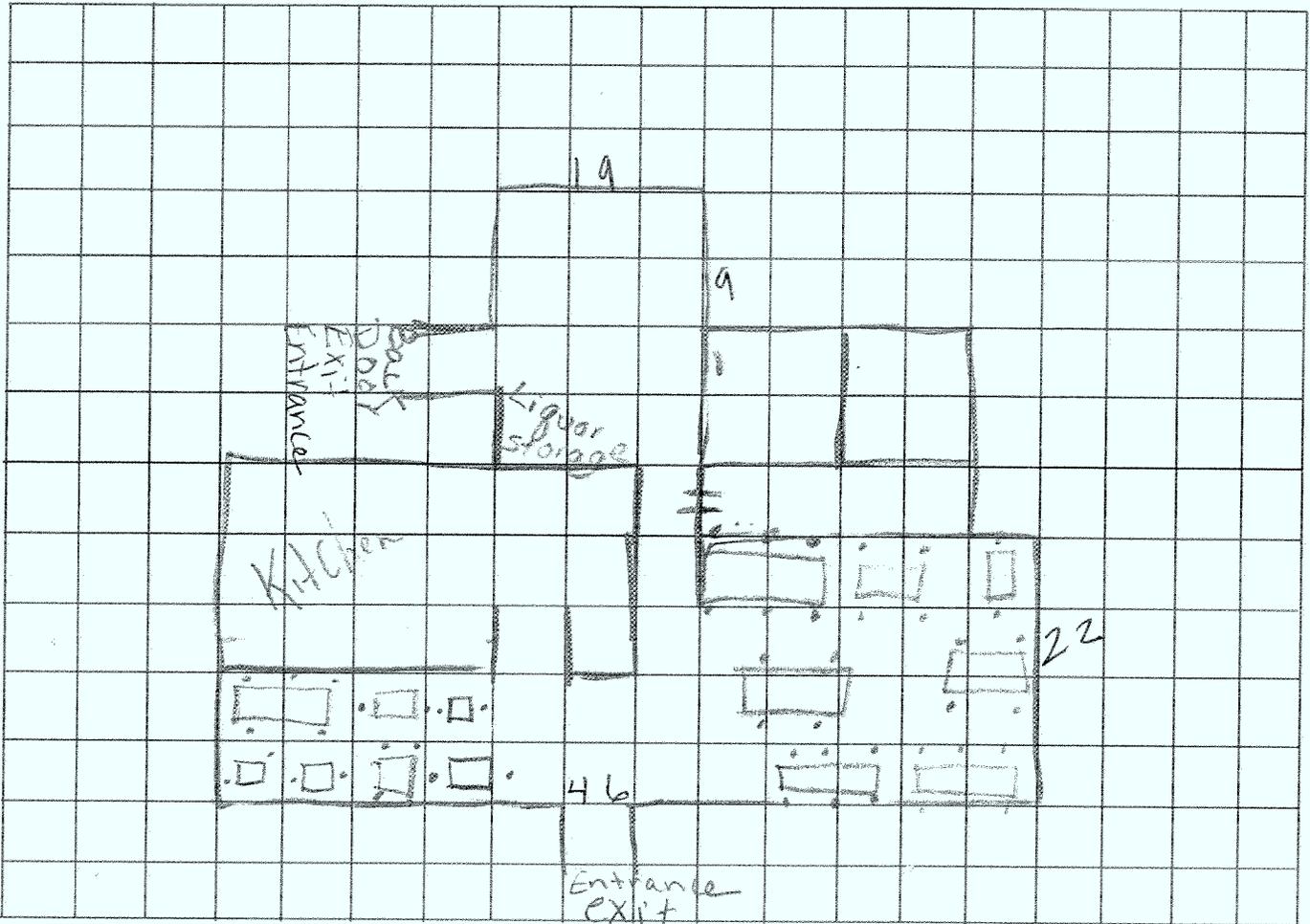
Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? restaurant

**SECTION 15 Diagram of Premises**

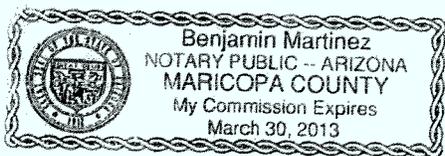
4. In this diagram please show only the area where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, bar stools, hi-top tables, dining tables, dining chairs, the kitchen, dance floor, stage, and game room. Do not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



**SECTION 16 Signature Block**

I, Antonio Najera Vazquez, 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.

x [Signature]  
(signature of applicant listed in Section 4, Question 1)



State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this

18 of JUNE, 2009  
Day Month Year

[Signature]  
signature of NOTARY PUBLIC

My commission expires on : 30/3/2013  
Day Month Year

# 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

Already on file  
 Refer to License # 12073559

## RESTAURANT OPERATION PLAN

LICENSE # SG00120

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

Grill	Red Hots AGGH-36-NG 20000/burner
Oven	Blodgett 1048B 60000 Btu/hr
Freezer	GE
Refrigerator	Beverage air KR48-1AS 312 high side 140 lows
Sink	Allstrong 3 Section
Dish Washing Facilities	3 sinks
Food Preparation Counter (Dimensions)	2' x 8'
Other	

2. Print the name of your restaurant: Tony's Mexican Food

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

4. List the seating capacity for: 50

- a. **Restaurant area** of your premises [ 1,183 Ft ] 50 seats
- b. **Bar area** of your premises [ + N/A ]
- c. **Total area** of your premises [ 1,183 Ft ]

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.)      100 %

\*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).

Television - Philips - 2

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.

waitress / server - duties are to seat customers  
serve them, bring out their ordered food, and  
keep the premises clean.

chef - they are responsible to make fresh  
food daily.

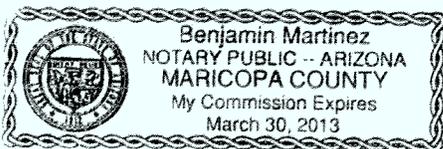
I, ANTONIO NAJERA VASQUEZ, hereby declare that I am the APPLICANT filing this application. I have  
(Print full name)  
read this application and the contents and all statements true, correct and complete.

x Antonio Vasquez  
(Signature of APPLICANT)

State of ARIZONA County of MARICOPA  
The foregoing instrument was acknowledged before me this  
18 day of JUNE, 2009.  
Day of Month Month Year

My commission expires on: 3/30/2013

Bj / M  
(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

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

2800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

09 JUN 23 Liq. Dept PM 2800 W Washington 5th Floor
09 MAY 20 Liq. Dept PM 1 26

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 #

12073559

(If the location is currently licensed)

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

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

2. Name: Vazquez Antonio Najera Date of Birth: (Last First Middle) (NOT a Public Record)

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

4. Place of Birth: Vera Cruz Mexico Height: 5-03 Weight: 150 Eyes: GRN Hair: 6Y (City State Country (not county))

5. Marital Status [ ] Single [X] Married [ ] Divorced [ ] Widowed Daytime Contact Phone: 623-932-4853

6. Name of Current or Most Recent Spouse: Vazquez Maria A. Matamoros Date of Birth: (Last First Middle Maiden) (NOT a public record)

7. You are a bona fide resident of what state? Arizona If Arizona, date of residency: 1957

8. Telephone number to contact you during business hours for any questions regarding this document. 623-932-0411

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: Tony's Mexican Food Premises Phone: 623-932-0411

11. Physical Location of Licensed Premises Address: 301 W main Avondale AZ 85023 (Street Address (Do not use PO Box #) City State 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.

Table with 4 columns: FROM Month/Year, TO Month/Year, DESCRIBE POSITION OR BUSINESS, EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip). Row 1: 2/1970, CURRENT, owner/manager, Tony's Mexican Food 301 W. Main Avondale AZ 85023

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

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

Table with 7 columns: FROM Month/Year, TO Month/Year, Rent or Own, RESIDENCE Street Address, City, State, Zip. Row 1: 3/2000, CURRENT, Own, ( ), ( ), ( )

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? 5, 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, Antonio <sup>najera</sup> Najera, hereby declare that I am the APPLICANT/REPRESENTATIVE  
(print full name of Applicant)  
filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

x Antonio Najera  
(Signature of Applicant)

State of Arizona County of Maricopa  
The foregoing instrument was acknowledged before me this  
7<sup>th</sup> day of May, 2009  
Month Year  
Tania L. Hamilton  
(Signature of NOTARY PUBLIC)



**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 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Month Year  
Signature of Controlling Person or Agent (circle one) \_\_\_\_\_  
Print Name \_\_\_\_\_  
(Signature of NOTARY PUBLIC) \_\_\_\_\_  
My commission expires on: \_\_\_\_\_  
Day Month Year

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

09 JUN 23 Licr. Dept PM 2 12
09 MAY 20 Licr. Dept PM 1 26

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 DLEG. 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 #

12073559

(If the location is currently licensed)

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

1. Check appropriate box -> [X] 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: Vazquez Maria Antonia Last First Middle Date of Birth: (NOT a Public Record)

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

4. Place of Birth: Honduras Height: 5ft Weight: 130 Eyes: Blk Hair: BK City State Country (not county)

5. Marital Status [ ] Single [X] Married [ ] Divorced [ ] Widowed Daytime Contact Phone: 623-932-4853

6. Name of Current or Most Recent Spouse: Vazquez Antonio N. Last First Middle Maiden Date of Birth: (NOT a public record)

7. You are a bona fide resident of what state? Arizona If Arizona, date of residency: 03/21/1990

8. Telephone number to contact you during business hours for any questions regarding this document. 623-932-0411

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: Tony's Mexican Food Premises Phone: 623-932-0411

11. Physical Location of Licensed Premises Address: 301 W Main St Avondale, MA 85322 Street Address (Do not use PO Box #) City State 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.

Table with 4 columns: FROM Month/Year, TO Month/Year, DESCRIBE POSITION OR BUSINESS, EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip). Entry: 09/1991, CURRENT, owner/manager, Tony's Mexican Food 301 W Main Avondal, AZ 85323

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

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

Table with 7 columns: FROM Month/Year, TO Month/Year, Rent or Own, RESIDENCE Street Address, City, State, Zip. Entry: 3/2000, CURRENT, Own, [Redacted]

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

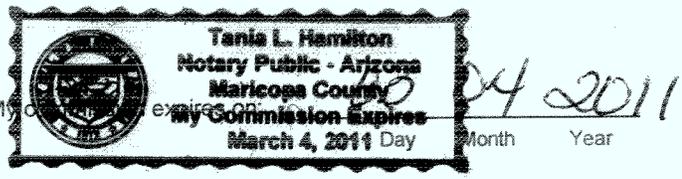
14. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?  
If you answered YES, how many hrs/day? 4, and answer #14a below. If NO, skip to #15.  YES  NO
- 14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must 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, MANIA ANTONIA VAZQUEZ hereby declare that I am the APPLICANT/REPRESENTATIVE  
(print full name of Applicant)  
filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

x Mania A. Vazquez  
(Signature of Applicant)

State of Arizona County of Maricopa  
The foregoing instrument was acknowledged before me this  
1<sup>st</sup> day of May 2009  
-Month- Year  
Tania L. Hamilton  
(Signature of NOTARY PUBLIC)



**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.

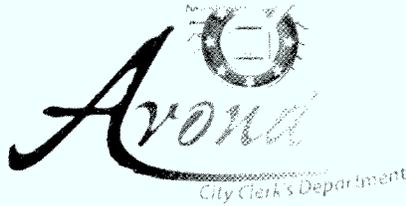
State of \_\_\_\_\_ County of \_\_\_\_\_  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ Month Year

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

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

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

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



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

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

**ROUTING:**

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

**APPLICANT'S NAME:** ANTONIO VAZQUEZ

**BUSINESS NAME:** TONY'S MEXICAN FOOD

**ADDRESS:** 301 WEST MAIN STREET

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

**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

\_\_\_\_\_  
*[Signature]*  
 SIGNATURE  
 \_\_\_\_\_  
*Zoning Specialist*  
 TITLE

7/23/09  
 DATE

- APPROVED
- DENIED

\_\_\_\_\_  
*[Signature]*  
 SIGNATURE  
 \_\_\_\_\_  
*DS DIRECTOR*  
 TITLE

7/27/09  
 DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF:** AUGUST 10, 2009  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY:** JULY 29, 2009



## DEVELOPMENT SERVICES

### MEMORANDUM

---

**DATE:** July 23, 2009

**TO:** Carmen Martinez, City Clerk

**PREPARED BY:** Jennifer Fostino, Zoning Specialist

**SUBJECT:** Series 16 (State Series 12) Restaurant Liquor License for Tony's Mexican Food

The site is located on the southeast corner of Greenleaf Lane and Main 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.

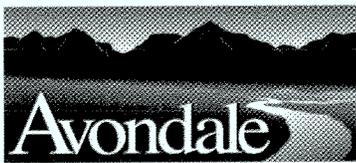
The General Plan designates the property as Medium High Density Residential and the current zoning is Community Commercial (C-2). A dine-in restaurant is a permitted use in the C-2 zoning.

Staff recommends approval of this request.

Attachment: 2008 Aerial Photography  
Zoning Vicinity Map

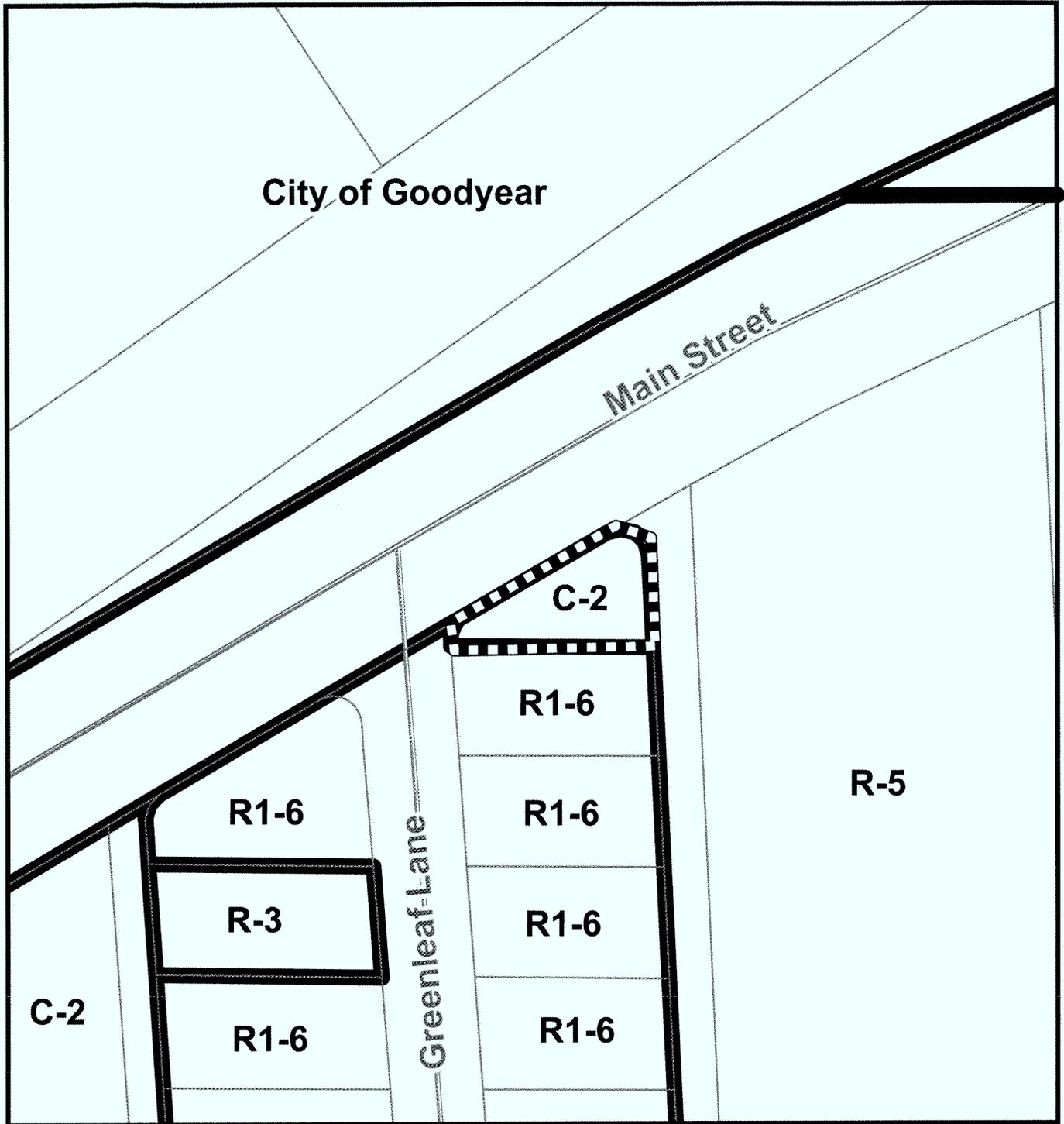


**Aerial Photograph 2008**

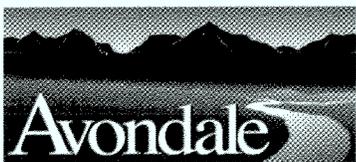


**Subject Property**





### Zoning Vicinity Map



Subject Property





**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

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

**ROUTING:**

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

---

**APPLICANT'S NAME:** ANTONIO VAZQUEZ

**BUSINESS NAME:** TONY'S MEXICAN FOOD

**ADDRESS:** 301 WEST MAIN STREET

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

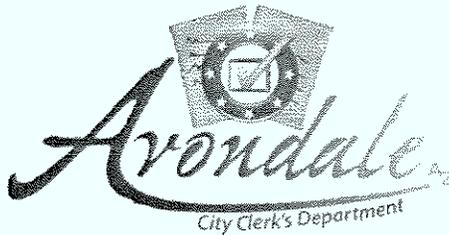
**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

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

**08/03/09**  
\_\_\_\_\_  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: AUGUST 10, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 29, 2009**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

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

**ROUTING:**

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

**APPLICANT'S NAME:** ANTONIO VAZQUEZ

**BUSINESS NAME:** TONY'S MEXICAN FOOD

**ADDRESS:** 301 WEST MAIN STREET

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

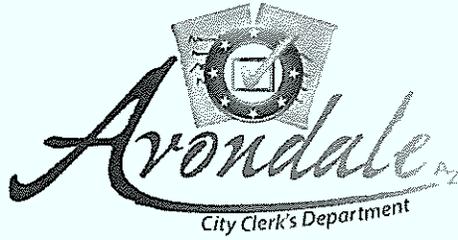
**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

*Laura K. Lee*  
SIGNATURE  
*Privilege Tax Auditor*  
TITLE

7/23/09  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: AUGUST 10, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 29, 2009**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

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

**ROUTING:**

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

---

**APPLICANT'S NAME:** ANTONIO VAZQUEZ

**BUSINESS NAME:** TONY'S MEXICAN FOOD

**ADDRESS:** 301 WEST MAIN STREET

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

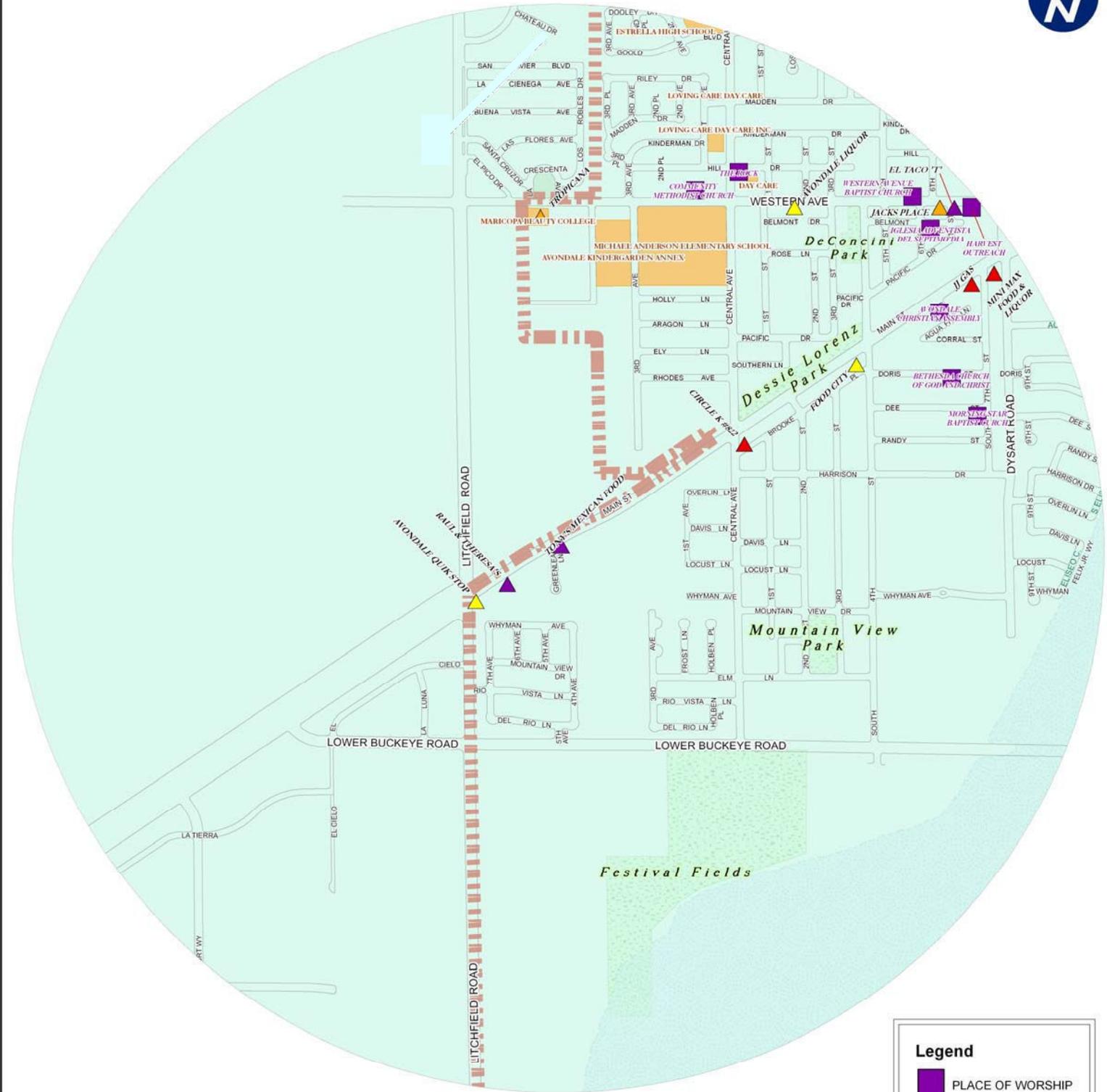
**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

*[Signature]*  
SIGNATURE  
Lieutenant  
TITLE

07-23-09  
DATE

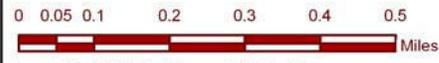
**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: AUGUST 10, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 29, 2009**



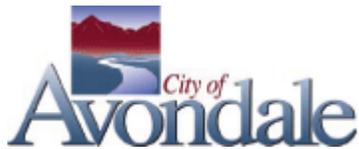
**Legend**

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

**TONY'S MEXICAN FOOD**  
**301 W Main St**  
**1 Mile Buffer**







# CITY COUNCIL REPORT

**SUBJECT:**

Construction Contract Award - Citywide  
Contracting-Van Buren Waterline, 105th to 103rd  
Avenue

**MEETING DATE:**

August 10, 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 award a construction contract to Citywide Contracting for construction of a waterline in Van Buren Street, from 105th to 103rd Avenue in the amount of \$135,380 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The water main in Van Buren Street has been partially constructed by development over the last few years. The City is currently constructing the portion of the main between 103rd and 101st Avenues, which leaves only a quarter-mile of main to be constructed, between 105th and 103rd Avenues. This portion of main is needed to improve the City's ability to provide fire flows for the area. This construction will fill in the remaining segment of waterline.

**DISCUSSION:**

The scope of work for this project will include the installation of approximately 1,350 feet of 16" waterline.

Invitation-for-Bid notices were published in the West Valley View on July 2, 2009 and July 9, 2009 and in the Arizona Business Gazette on July 8, 2009. A non-mandatory pre-bid meeting was held on July 15, 2009. Twenty two bids were received and opened on July 22, 2009. Each bid package was reviewed and all except three met the bidding requirements. The bids ranged from approximately \$136,000 to \$278,000. Firms submitting the lowest four bids and the amount of their bids are as follows:

Citywide Contracting LLC	\$135,380.00
Crush Construction LLC	\$146,511.00
Klass Services LLC	\$152,891.17
Sahuro Contracting	\$162,595.00

The attached bid Tabulation Sheet has the detailed bid item breakdown of each submitted bid. Citywide Contracting LLC with a bid of \$135,380.00 was determined to have submitted the lowest responsive bid. Staff contacted references provided and Citywide Contracting LLC did receive positive recommendations. Citywide Contracting has completed similar work. Staff contacted the Registrar of Contractors and found no claims on file against this contractor. Staff determined that Citywide Contracting is competent and qualified for this project. A tentative construction schedule is as follows:

City Council Approval	8/10/09
Notice of Award	8/11/09
Notice to Proceed	9/7/09
Completion	11/2/09

**BUDGETARY IMPACT:**

Funding is currently available in account 514-1135-00-8520.

**RECOMMENDATION:**

Staff recommends that the City Council award a construction contract to Citywide Contracting LLC for construction of a waterline in Van Buren Street, from 105th to 103rd Avenue in the amount of \$135,380 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

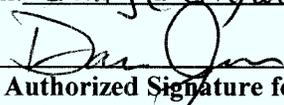
 [Contract](#)

**CITY OF AVONDALE  
WATER RESOURCES DEPARTMENT  
WR 10-003**

OFFER

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

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

Arizona Transaction (Sales) Privilege Tax License Number: <u>07-550351-D</u>  Federal Employer Identification Number: <u>86-0884939</u>  <p style="text-align: center;"><b>City Wide Contracting, LLC.</b></p> <p style="text-align: center;">Contractor Name</p> <p style="text-align: center;"><u>4114 E. Washington St</u></p> <p style="text-align: center;">Address</p> <hr/> <p style="text-align: center;"><u>Phoenix</u>      <u>AZ</u>      <u>85034</u></p> <p style="text-align: center;">City                      State                      Zip Code</p>	For Clarification of this Bid contact:  Name: <u>Dan Jones</u> Telephone: <u>602-462-9695</u> Facsimile: <u>602-462-9628</u> Email: <u>danj@citywidecontracting.com</u>  _____ Authorized Signature for Contractor <u>Dan Jones</u> _____ Printed Name <u>owner/member</u> _____ Title
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**ACCEPTANCE OF OFFER AND NOTICE OF AWARD (FOR CITY OF AVONDALE USE ONLY)**

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

CITY OF AVONDALE, an Arizona municipal corporation

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

ATTEST:

APPROVED AS TO FORM:

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

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

ARTICLE I - DEFINITIONS

For purposes of this Invitation for Bids, the following definitions shall apply:

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

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

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

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

“Business Days” shall mean City working days.

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

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

“Contract” means, collectively, the (i) the Offer, (ii) Article I - Definitions, (iii) Article II - Bid Process; Bid Award, (iv) Article III - the General Terms & Conditions, (v) Technical Specifications, attached hereto as Exhibit A, (vi) Price Sheet, attached hereto as Exhibit B, (vii) Bid Bond, attached hereto as Exhibit C, (viii) Performance Bond, attached hereto as Exhibit D, (ix) Payment Bond, attached hereto as Exhibit E, (x) Licenses; DBE/WBE Status Sheet, attached hereto as Exhibit F, (xi) References, attached hereto as Exhibit G, (xii) Federal Requirements, if any, attached hereto as Exhibit H, (xiii) Acknowledgements of Addenda received, if any, attached hereto as Exhibit I, (xiv) Notice of Award, (xv) Notice to Proceed, (xvi) any approved Change Order or Addenda, (xvii) Contractor’s Certificates of Insurance and a copy of the Declaration Page(s) of the insurance policies and (xviii) the Certificate of Completion.

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

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

“Days” means calendar days unless otherwise specified.

“Department Representative” means the City employee, as designated on the cover of this IFB, who has specifically been designated to act as a contact person to the Bidders and/or Contractor, and who is responsible for monitoring and overseeing the Contractor’s performance under the Contract and for providing information regarding details pertaining to the Work.

“Engineer” means the City Engineer or authorized designee.

“Final Completion” means Substantial Completion plus 30 Days unless otherwise designated by the Engineer.

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

“MAG Specifications” means, collectively, the “Uniform Standard Specifications for Public Works Construction, 1998 Edition with Revisions through 2009” and the “Uniform Standard Details for Public Works Construction, 1998 Edition with Revisions through 2009” which are sponsored and distributed by the Maricopa Association of Governments (“MAG”) and any amendments or supplements adopted by the City.

“MAG Supplement” means the City of Avondale Supplement to the MAG Uniform Standard Specifications and Details for Public Works Construction, dated April, 2008.

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

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

“Price” means the total expenditure for the defined Project, inclusive of all materials, commodities or services.

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

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

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

“Project” means the purpose and work described in the “Purpose/Scope of Work” as set forth in Section 2.1 of the IFB.

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

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

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

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

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

ARTICLE II – BID PROCESS; BID AWARD

2.1 Purpose/Scope of Work. The Work included in this project consists of primarily of construction of the City’s Van Buren Street 16-in Transmission Line, from 103rd Avenue to 105th Avenue. In general, the water transmission line improvements include the installation of approximately 1,350-ft of 16-inch diameter DIP waterline, two air release valves and assemblies, and connected to existing lines on either end of the project. The project will be constructed within the public right-of-way, and except for the connection at 105th Avenue, will be constructed entirely in the dirt road shoulder.

The City is issuing this IFB is to secure a qualified Contractor to perform the Work and provide materials as more particularly described in the Technical Specifications attached hereto as Exhibit A, and incorporated herein by reference. Bidders must submit Bids encompassing the entire Project, inclusive of the related Plans and/or Construction Drawings. Failure to do so may result in a determination that the Bid is non-responsive.

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

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

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

B. Specification Minimums. Bidders are reminded that the Specifications stated in this IFB are the minimum levels required and that Bids submitted must be for products that meet or exceed the minimum level of all features specifically listed in this IFB. Bids offering less than the minimums specified are not responsive and should not be submitted. It shall be the Bidder’s responsibility to carefully examine each item listed in the Specifications.

C. Required Submittal. Bidders shall provide **one** complete, fully executed **original** of this IFB, signed in ink by a person authorized to bind the Bidder, together with all completed, required attachments as specified below, to be considered a responsive Bid:

1. Offer
2. Price Sheet
3. Bid Bond
4. Licenses; /DBE & MBE Status
5. References
6. Federal Requirements, if applicable
7. Acknowledgement for each Addendum received, if any

D. Bidder Responsibilities. All Bidders shall (1) examine the entire Bid package, (2) seek clarification of any item or requirement that may not be clear, (3) check all responses for accuracy before submitting a Bid and (4) submit the entire, completed Bid package by the official Bid Deadline. Late Bids shall not be considered. Bids not submitted with an **original, signed** Offer page by a person authorized to bind the Bidder shall be considered non-responsive. Negligence in preparing a Bid confers no right of withdrawal after the Bid Opening, unless otherwise provided in the City Procurement Code.

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

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

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

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

I. Withdrawal. At any time prior to the specified Bid Opening, a Bidder (or designated representative) may amend or withdraw its Bid. Facsimile, electronic (email) or mailgram Bid amendments or withdrawals will not be considered. No Bid shall be altered, amended or withdrawn after the specified Bid Deadline, unless otherwise permitted pursuant to the City Procurement Code.

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

2.4 Inquiries; Interpretation of Plans, Specifications and Drawings.

A. Inquiries. Any question related to the IFB, including any part of the plans, Specifications or other Contract documents, shall be directed to the Engineer, Department Representative or Procurement Representative whose name appears on the cover page of this IFB. Questions shall be submitted in writing by the date indicated on the cover of this IFB; the City will not respond to any inquiries submitted later than the Final Date for Inquiries. The Bidder submitting such inquiry will be responsible for its prompt delivery to the City. Any correspondence related to the IFB shall refer to the title and number, page and paragraph. However, the Bidder shall not place the IFB number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Bid and may not be opened until the Bid Opening. Any interpretations or corrections of the proposed Contract documents will be made only by addenda duly approved and issued by the City. The City will not be responsible for any other explanations or interpretations of the Contract documents.

B. Addenda. It shall be the Vendor's responsibility to check for addenda issued to this IFB. Any addendum issued by the City with respect to this IFB will be available at:

City of Avondale City Hall, 11465 West Civic Center Dr. Avondale, Arizona 85323  
Buyhub Website at [www.buyhub.com](http://www.buyhub.com)  
City of Avondale website at [www.avondale.org/procurement](http://www.avondale.org/procurement)

C. Approval of Substitutions. The materials, products, and equipment described in this Contract establish a standard or required function, dimension, appearance and quality to be met by any proposed

CITY OF AVONDALE  
WATER RESOURCES DEPARTMENT  
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substitution. No substitute will be considered unless written request for approval has been received by the City or its representative at least ten days prior to the Bid Deadline. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including any drawings, cuts, performance and test data and any other information necessary for evaluation of the substitute. If a substitute is approved, the approval shall be by written addendum to the Contract. Contractor shall not rely upon approvals made in any other manner.

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

E. Proposal Quantities. It is expressly understood and agreed by the parties hereto that the quantities of the various classes of work to be done and the material to be furnished under this Contract, which have been estimated as stated in the Bidder's Offer, are only approximate and are to be used solely for the purpose of comparing, on a consistent basis, the Bidder's Offers presented for the Work under this Contract. The Contractor further agrees that the City shall not be held responsible if any of the quantities shall be found to be incorrect and the Contractor will not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of Work as estimated and the Work actually done. If any error, omission or misstatement is found to occur in the estimated quantities, the same shall not (1) invalidate this Contract or the whole or any part of the Work in accordance herewith and for the prices herein agreed upon and fixed therefore, (2) excuse Contractor from any of the obligations or liabilities hereunder or (3) entitle Contractor to any damage or compensation except as may be provided in this Contract.

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

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

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

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

2.9 Taxes. The City is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate item. It is the sole responsibility of the Bidder to determine any applicable State tax rates and calculate the Bid accordingly. Failure to accurately tabulate and applicable taxes may result in a determination that a Bid is non-responsive. The Bidder shall not rely on, and shall independently verify, any tax information provided by the City.

2.10 Federal Funding. It is the responsibility of the Bidder to verify with the Department Representative if federal wage rates other federal requirements apply to the Work (the "Federal Requirements"). It is also the responsibility of the Bidder to incorporate any necessary amounts in the Bid to accommodate for required federal record keeping, necessary pay structures or other matters related to the Federal Requirements. Federal Requirements, if any, shall be attached as hereto as Exhibit H.

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

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

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

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

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

A. No Collusion. The submission of the Bid did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

C. No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a City employee, officer, agent or elected official in connection with the submitted Bid or a resultant Contract. In the event that the resultant Contract is cancelled pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

D. No Signature/False Statement. Failure to sign the Bid, or signing it with a false statement, shall void the submitted Bid and any resulting Contract and the Bidder may be debarred from further bidding in the City.

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

2.17 Award of Contract.

A. Multiple Award. The City may, at its sole discretion, include Bidder's Offer as part of a Multiple Award.

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

C. Evaluation. The evaluation of this Bid will be based on, but not limited to, the following: (1) compliance with Specifications, (2) Price, including alternates, if any and (3) Bidder qualifications to perform the Work.

D. Defects. Notwithstanding any other provision of this IFB, the City expressly reserves the right to: (1) waive any immaterial defect or informality, (2) reject any or all Bids or portions thereof and (3) reissue an IFB.

E. Offer. A Bid is a binding offer to contract with the City based upon the terms, conditions and specifications contained in this IFB and the Bidder's responsive Bid, unless any of the terms, conditions, or specifications is modified by a written addendum or contract amendment. Bids become binding Contracts when the Acceptance of Offer and Notice of Award is executed in writing by the City. Bidder Offers shall be valid and irrevocable for **60** days after the Bid Opening.

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

ARTICLE III – GENERAL TERMS AND CONDITIONS

PART A - GENERAL

3.1 Reference Standards. The Contractor shall perform the Work required in conformance with MAG Specifications and the MAG Supplement, each of which is incorporated herein by reference. In the event of a conflict between the MAG Specifications and the MAG Supplement, the MAG Supplement shall prevail.

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

3.3 Contract Time. The Contract Time for this Project shall be **60** days from the Notice to Proceed. All Work on the Project shall be completed on or before the expiration of the Contract Time.

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

A. Key Personnel. A list of the names and emergency telephone numbers of the proposed key personnel of the Contractor 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 Engineer. Such key personnel and Subcontractors shall be satisfactory to the City and shall not be changed except with the consent of the Engineer. The Engineer's approval of substituted personnel shall not be unreasonably withheld.

B. Subcontracts. Names of all Subcontractors proposed for use on the Project.

C. Progress Schedule. A construction progress schedule showing the estimated time for start and completion of the major items of work.

D. Payment Schedule. A payment schedule showing the estimated dollar volume of work for each calendar month during the life of the Project.

E. Traffic Control. A written proposal outlining the intended plans for traffic control and for maintaining continuous access to residences and businesses along the construction site.

F. Drawings, Materials & Equipment. An itemized list of all required shop drawings, material and equipment submittals and a schedule indicating the dates each of these items will be transmitted to the City for review.

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

A. Commencement. The start of construction.

B. City Services Shut Down. Shutdown of City water, sewer, drainage, irrigation and/or traffic control facilities.

C. Well or Pump Shut Down. Shutdown of existing water wells and booster pumps. Such shutdown shall not exceed 72 hours of any facility and only one facility may be shutdown at any one time.

D. Water Lines. All draining and filling of water lines and irrigation laterals and all operations of existing valves or gages. The City will furnish all required water meters.

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

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

3.7 Affirmative Action Report. It is the policy of the City that suppliers of goods or services to the City adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, and promote regardless of race, color, religion, gender, national origin, age or disability. On any Contract in excess of six months, the Contractor shall provide an annual report to the Engineer highlighting its activities to comply with this Section 3.7.

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

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

3.10 Changes in the Work. The City may, without invalidating this Contract, order changes in the Work consisting of additions, deletions or other revisions to the Contract and the Contract Price and the Contract Time shall be adjusted as provided below. The Contract Price and/or the Contract Time may only be changed

by the City's written directive or approval authorizing said change, and said changes shall be performed under the applicable conditions of the Contract. The Contract Price shall be adjusted as a result of a change in the Work as follows:

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

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

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

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

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

B. Progress Payments.

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

2. Within 14 days after approval of each monthly application for payment, the City shall pay directly to the Contractor the appropriate amount for which application for payment is made, less amounts (a) previously paid by the City, (b) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies which are set forth in writing and provided to the Contractor and (c) any retainage as set forth in subsection 3.11(C) below.

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

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

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

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

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

2. When the Work is fifty per cent (50%) completed, one-half of the amount retained including any securities substituted pursuant to subsection 3.11(C) shall be paid to the Contractor on the Contractor's request, provided the Contractor is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After the construction Work is fifty per cent (50%) completed, no more than five per cent (5%) of the amount of any subsequent progress payments made under this Contract may be retained, provided the Contractor is making satisfactory progress on the Project. If, at any time, the City determines satisfactory progress is not being made, ten per cent (10%) retention shall be reinstated for all progress payments made under this Contract after the determination.

D. Payment for On-site and Off-site Stored Materials. Payment shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. Payment may similarly be made for materials and equipment suitably stored off the site, conditioned upon the Contractor furnishing evidence to the City that (1) title to the materials and equipment will pass to the City upon payment therefore, (2) the materials and equipment are adequately insured and (3) such other matters as the City may reasonably request in order to protect its interests. With the prior written approval of the City, Contractor may advance order the bulk delivery of work materials to be incorporated into the Work over the course of this Contract, and upon delivery and receipt of supplier invoice either directly to the Contractor, or to the vendor or by joint check to Contractor and vendor and shall receive a full release for the amount paid from vendor and Contractor. Contractor agrees to assume full responsibility for the safekeeping of all said materials and shall guarantee to the City that said materials shall remain safe from theft or damage from any and all causes (unless caused by the sole negligence of the City). Contractor shall immediately replace, repair or restore said materials to their original condition so as to not cause any delay in the Work, and Contractor shall indemnify and hold harmless the City from and against any and all loss, cost, liability or expense resulting from any loss or damage to any of the materials described herein from any cause unless due to the City's sole negligence. Should the City have reason to believe Contractor is not properly safeguarding any of the said materials, the City shall have the right, but not the affirmative duty, to immediately take such steps as it deems necessary to do so, including removing Contractor from the job, replacing any materials or expending any sums to properly carry out Contractor's responsibility hereunder, and any amounts so expended shall be billed back to Contractor or deducted from any sums then or thereafter due to Contractor. Contractor shall fully insure all materials stored on site as required by the City, and if such insurance is not obtained due to a lack of insurable interest, the City shall have the right to obtain such insurance and charge the amount thereof back to Contractor or deduct said amount from any funds then or thereafter due to Contractor.

E. Title to Construction Work. The Contractor warrants that title to all Work covered by an application for payment shall pass to the City no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment, all Work for which applications for payment have been previously issued and payments received from the City shall be free and clear of liens, claims, security

interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

F. Substantial Completion. When the Contractor considers that the Work is Substantially Complete, the Engineer shall prepare and submit to the Contractor a comprehensive list of Punch List items, which the City may edit and supplement. The Contractor shall proceed promptly to complete and correct Punch List items. Failure to include an item on the Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with this Contract. Upon receipt of the Punch List, the City will make an inspection to determine whether Substantial Completion has occurred and if so, a Certificate of Substantial Completion shall be issued stating the date of Substantial Completion. The City and the Contractor shall execute the Certificate of Substantial Completion. If the City and the Contractor cannot agree as to the appropriate date of Substantial Completion, such issue shall be submitted for dispute resolution in accordance with the procedures set forth in Article III, Subpart B below. Notwithstanding such disagreement, the Contractor shall diligently proceed with completion of the Punch List items. Warranties required by this Contract shall commence on the date of Substantial Completion or designated portion thereof unless otherwise provided in this Contract.

G. Final Payment.

1. Final payment, consisting of the unpaid balance of the cost of the Work shall be due and payable at Final Completion 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.

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

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

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

3.12 Traffic Regulations. All traffic affected by the Work under this Contract shall be regulated in accordance with the then-current version of the *City of Phoenix-Traffic Barricade Manual* (the "Barricade Manual") which is incorporated herein by reference; provided, however, that this Contract shall govern in a conflict with the terms of the Barricade Manual. At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measures, as necessary. At the same time the City will designate a representative who will be responsible to see that all traffic control and any

alterations are implemented and monitored to the extent that traffic is carried through the Work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents.

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

B. Traffic Control Devices. All traffic control devices required for the Work under this Contract shall be the responsibility of the Contractor. The Contractor shall place advance warning signs (such as REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT and DO NOT PASS) in accordance with the Barricade Manual. The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights, signals and signs and shall take all necessary precautions for the protection of the Work and safety of the public. The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes. All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Contractor shall conform to the standard design generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Contract.

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

D. Manual Traffic Control. Manual traffic control shall be in conformity with the Barricade Manual, except that the designated liaison officer shall be contacted at the Avondale Police Department. When construction activities or traffic hazards at the construction site require the use of flagmen, it shall be the Contractor's responsibility to provide trained flagmen to direct traffic safely. 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.

E. Contractor Equipment. The assembly and turnarounds of the Contractor's equipment shall be accomplished using adjacent local streets when possible. Equipment used and/or directed by the Contractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Contractor shall provide a flagman or off-duty, uniformed officer to assist with spotting.

F. Traffic Alterations. During construction, it may be necessary to alter traffic control. Any such alterations shall be in accordance with the Barricade Manual. No street within the Project area may be closed to through traffic or to local emergency traffic without prior, written approval of the Engineer. Written approval may be given if sufficient time exists to allow for notification of the public at least three days in advance of such closing. Partial closure of streets within the Project shall be done in strict conformity with the Engineer's written directions.

G. Intersections. Caution should be used when excavating near intersections with traffic signal underground cable. Contractor shall notify in writing the Engineer 24 hours in advance of any work at such intersections. The Contractor shall install and maintain temporary overhead traffic signal cable as specified by the Engineer when underground conduit is to be severed by excavations at intersections. The Contractor shall provide an off-duty uniformed police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the Engineer's satisfaction. Magnetic detector loops shall, under no circumstances, be spliced.

H. Adjacent Property Access. The Contractor shall maintain access to all businesses, schools and residences along the Project alignment at all times in accordance with the MAG Supplement, Section 107.7.1, Access.

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

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

3.14 Insurance Representations and Requirements.

A. General.

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

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

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

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

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

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

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

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

9. Evidence of Insurance. Prior to commencing any work or services under this Contract, Contractor 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 Contract, issued by Contractor's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage, conditions and limits of coverage specified in this Contract 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 Contract. 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 Contract. In the event any insurance policy required by this Contract is written on a "claims made" basis, coverage shall extend for two years past Final Completion and the City's acceptance of the Contractor's work or services and as evidenced by annual certificates of insurance. If any of the policies required by this Contract expire during the life of this Contract, it shall be Contractor'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 Contract shall be identified by referencing this Contract number and title. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate Contract 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 - Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 03 97 or equivalent.

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

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

b. Contractor's insurance shall be primary insurance as respects performance of the Contract.

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

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. Contractor 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 Contract, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

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

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

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

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

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

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

#### PART B - PERFORMANCE OF THE WORK

3.17 Project Videotape. The Contractor shall produce and provide a project videotape to the Engineer as required by MAG Supplement Section 105.5.3. All costs associated with the Project videotape produced in accordance with this Section shall be deemed incidental.

3.18 Soil and Subsurface Conditions. In addition to conformance to MAG Specifications, Section 102.4, Examination of Plans, Special Provisions and Site Work, the Contractor shall make its own determinations as to the soil and subsurface conditions, including rock, caliche and ground water and shall complete the work in whatever material and under whatever conditions may be encountered or created, without extra cost to the City pursuant to the provisions of the MAG Supplement, Section 102.4.1.

3.19 Work Scheduling. Time is of the essence for this Contract. Contractor shall provide the Engineer with any requested scheduling information and a proposed schedule for performance of the Work within the Contract Time in a form acceptable to the Engineer and approved by the Engineer, in his sole and absolute discretion, providing for commencement and completion of the Work (the "Schedule"). The Schedule

shall include the date for Substantial Completion of the Work. The Engineer may revise the Schedule during the course of the Work. Contractor, to induce the City to enter into this Contract, has and does hereby agree to fully perform and complete the Work for the Contract Price within the Schedule.

3.20 Contractor's Representative. The Contractor or his authorized representative shall be present at the Work site at all times during working hours. Instructions and information provided by the Engineer to the Contractor's representative shall be considered as having been given to the Contractor, per MAG Supplement Section 105.5.2.

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

3.22 Extensions of Time.

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

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

1. Delays resulting from Force Majeure.
2. Differing, unusual or concealed site conditions that could not reasonably have been anticipated by the Contractor in preparing the Schedule, including, without limitation, archaeological finds and soil conditions (including rock or other geological conditions), underground foundations, abandoned utility lines and water conditions.
3. Delays resulting from the existence or discovery of Hazardous Materials on the Site not brought to the site by the Contractor.
4. Delays resulting from changes in Applicable Laws occurring after the date of execution of this Contract.
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 Contractor has coordinated with the utility causing the delay and the delay occurs despite reasonable steps taken by Contractor to avoid the delay.

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

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

D. 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 Engineer will provide the Contractor with written notice of Engineer's determination of the respective number of Days of Excusable Delay and/or Inexcusable Delay within ten Days after receipt by the Engineer of the Contractor's written request for such determination. The Contractor shall not, however, deem an issuance by the Engineer of such a determination to be a concurrence of the matters set forth therein, and the Contractor may invoke the dispute resolution procedures set forth in Part B below with respect to such determination.

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

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

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

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

3.24 Offset.

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

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

3.25 Termination by the City for Cause.

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

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

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

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 breaches.
4. Assumes the obligations of the Contractor within the established time limits.

3.26 Termination by the City for Convenience. The City may, upon 30 days' written notice to the Contractor, terminate this Contract, in whole or in part, for the convenience of the City without prejudice to any right or remedy otherwise available to the City. Upon receipt of such notice, the Contractor shall immediately discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the City, the Contractor's sole and exclusive right and remedy shall be payment for all work performed through the date of termination. The Contractor shall not be entitled to be paid any amount as profit for unperformed services or consideration for the termination of convenience by the City.

3.27 Contract Subject to Appropriation. The provisions of this Contract for payment of funds by the City shall be effective when funds are appropriated for purposes of this Contract and are actually available for payment. The City shall be the sole judge and authority in determining the availability of funds under this Contract and the City shall keep the Contractor fully informed as to the availability of funds for the Contract. The obligation of the City to make any payment pursuant to this Contract 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 Contract during

any immediately succeeding fiscal year, this Contract shall terminate at the end of then-current fiscal year and the City and the Contractor shall be relieved of any subsequent obligation under this Contract.

3.28 Suspension by the City for Convenience.

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

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

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

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

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

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

3.33 Character and Status of Workers. Only skilled foremen and workers shall be employed on work requiring special qualifications. When required by the Engineer, the Contractor shall discharge any person who is, in the opinion of the Engineer, disorderly, dangerous, insubordinate, incompetent or otherwise objectionable. The Contractor shall indemnify and hold harmless the City from and against damages or claims for compensation that may occur in the enforcement of this Section. The Contractor shall be responsible for assuring the legal working status of its employees and its Subcontractor's employees. The Contractor agrees that once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the City. If key personnel are not available for work under this Contract for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Work than initially anticipated, the Contractor shall immediately notify the City and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

3.34 Work Methods. The methods, equipment and appliances used on the Work shall be such as will produce a satisfactory quality of Work, and shall be adequate to complete the Contract within the time limit

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

3.35 Safety Fencing Requirement for Trenches and Excavations. The Contractor shall provide safety construction fencing around all open trenches and excavations during all non-working hours. In addition, the Contractor shall provide safety fencing around the Project site during working hours in order to ensure for public safety. The Contractor shall provide for the safety and welfare of the general public by adequately fencing all excavations and trenches that are permitted by the Engineer to remain open when construction is not in progress. Fencing shall be securely anchored to approved steel posts located six (6) feet on center, having a minimum height of six (6) feet, and shall consist of wire mesh fabric of sufficient weight and rigidity to adequately span a maximum supporting post separation of six (6) feet. The fencing, when installed about the periphery of excavations and trenches, shall form an effective barrier against intrusion by the general public into areas of construction. The Contractor, at all times when construction is not in progress, shall be responsible for maintaining the fencing in good repair, and upon notification by the Engineer, shall take immediate action to rectify any deficiency. Prior to the start of any excavation or trenching required for the execution of the proposed work, the Contractor shall submit to the Engineer for approval, detailed plans showing types of materials and methods of fabrication for the protective fencing. There will be no separate measurement or payment for furnishing, installing, or maintaining protective fencing. The cost shall be considered incidental to the cost of the pipe, bridge, and any other structures.

3.36 Plans and Shop Drawings, Samples and Substitution of Materials. All submittals shall conform to MAG Specification 105.2, Plans and Drawings, as modified by the MAG Supplement. Contractor shall furnish, within three business days following request therefore by the City, detailed drawings of the Work, samples of materials and other submittals required for the performance or coordination of the Work. Substitutions shall be equal or superior to materials specified in the Contract Documents and shall be clearly identified on submittals as "proposed substitutions." Contractor shall be fully responsible for the adequacy, completeness and promptness of all such submittals. Materials shall not be furnished to the jobsite unless same is in strict compliance with the Specifications or otherwise approved in writing by the City. Approval by the City shall not relieve Contractor of full responsibility for compliance with scope, intent and performance in accordance with this Contract.

3.37 Cooperation with Utilities. The Contractor shall comply with the requirements of MAG Specifications 105.6 as modified by the MAG Supplement.

3.38 Sampling and Testing. Sampling and testing shall conform to the requirements of the MAG Specifications, Section 106, as modified by the MAG Supplement.

3.39 Cooperation between Contractors. The Contractor shall comply with the requirements of MAG Specifications 105.7 as modified by the MAG Supplement.

3.40 Outdoor Construction Time Restrictions. Unless otherwise permitted by the Engineer, construction will be restricted as listed in the following table:

<b>May 1 – October 31</b>	<b>November 1 – April 30</b>
5:00 a.m. to 7:00 p.m.	6:00 a.m. to 7:00 p.m.

Construction work shall not begin work prior to 7:00 a.m. and shall stop by 7:00 p.m. on Saturdays, Sundays and all city, state and federal holidays.

3.41 Construction Survey. Construction survey and as-built record drawings shall conform to the requirements of the MAG Specification, Section 105.8, Construction Stakes, Lines and Grades, as modified by the MAG Supplement.

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

3.43 Stockpile of Materials.

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

B. No Traffic Interference. Traffic shall not be required to travel over stockpiled materials and proper dust control shall be maintained.

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

3.45 Dust Control and Water. Contractor shall implement dust control measures in accordance with MAG Specification Section 104.1 and the MAG Supplement. Installation and removal of fire hydrant meters should be scheduled at least three (3) business days in advance through the City Water Billing Department. Watering shall conform to the provisions of Section 225 of the MAG Specifications. A deposit and installation fee in amounts set forth in the City's fee schedule is required for each meter. The cost of the water is at the prevailing rate.

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

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

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

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

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

3.51 Public Information and Notification. The Contractor shall submit a public information and notification plan for this Project (the "Notification Plan") to the City at the first pre-construction meeting held prior to start of construction. The Notification Plan shall include, at a minimum, the items set forth in this

Section 3.51; provided, however, that the Engineer may waive any portion of the requirements of this Section upon a written determination that the Project scope does not warrant such notification. Contractor shall provide Project information to affected residents and homeowners' associations prior to and throughout the Project's duration. The Contractor shall use the Notification Plan to inform the local citizens, businesses and City officials, not less than five business days in advance, of (A) necessary operations that create high noise levels, (B) street closures, (C) detour locations, (D) haul routes and material delivery routes and (E) disruption of bus routes, mail routes and other delivery/pick-up routes.

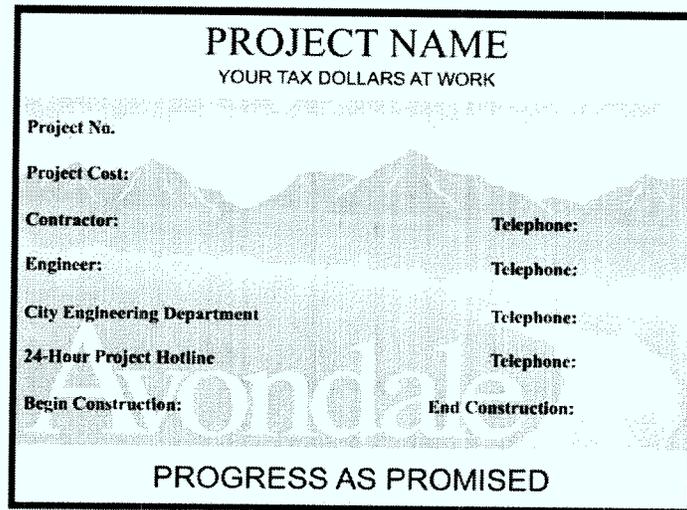
A. Neighborhood Notification. Prior to the start of any work on the Project, the Contractor shall distribute a preliminary "Dear Neighbor" letter (8-1/2"x11"), as submitted to and subject to the approval of the Engineer, to all businesses, property owners and residents within 600 feet of any portion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

1. Contractor's name, business telephone number and the 24-hour "Hot Line" telephone number for this Project
2. Name of Contractor's Project Manager
3. Name of Contractor's Project Superintendent
4. Brief description of the Project
5. Construction schedule, including anticipated work hours
6. Anticipated lane restrictions, including the expected duration thereof
7. Name of City's Project Manager
8. Name of the Engineer

The Engineer shall provide the Contractor with a distribution list for this "Dear Neighbor" letter. Contractor shall (1) ensure that the letter is distributed to all persons and businesses indicated on the list provided by the Engineer and (2) provide the Engineer with a copy of the letter sent and sufficient proof of mailing. Subsequent to the aforementioned, the Contractor shall distribute bi-monthly construction progress updates, including construction schedule and any additional information the Engineer deems important as a result of construction activities, to all persons and businesses included on the aforementioned distribution list. At the request of the Engineer, Contractor may be required to distribute additional public notifications. At the end of construction a final "Dear Neighbor" letter shall be distributed to the persons and businesses on the aforementioned distribution list highlighting the Contractor's and the City's appreciation for their patience during construction of the Project.

B. Project Signs. The Contractor shall furnish and install at one Project sign, unless otherwise directed by the City Engineer, not less than five business days before beginning construction, at a location determined by the Engineer, to inform the public of the forthcoming Project, construction dates and 24-Hour Hotline number. The Contractor shall submit the proposed layout of the Project sign to the Engineer for approval prior to fabrication of the sign. The Contractor shall maintain the sign as necessary and update the information as directed by the Engineer. At the Final Completion of the Project, the Contractor shall remove and dispose of the sign. The Project sign shall be fabricated as follows: (1) the vinyl sheeting for the background, legend, and border shall be applied by heat bonding, except that the decal and legend for the project title, cost, and Contractor's name shall be pressure sensitive application; (2) the 4-foot by 8-foot sign shall be mounted four-feet above the ground level and anchored three-feet into the ground with concrete backfill around the posts; and (3) sign colors shall be black letters on white background, over a ghost image of the City of Avondale logo. The information on the Project sign shall be in the format and fonts proportions as depicted on

the sample sign below. The image template may be obtained from the City of Avondale Engineering Department as a computer image file.



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

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

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

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

#### PART C - MISCELLANEOUS

3.52 Applicable Law; Venue. In the performance of this Contract, Contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Avondale, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities,

the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Contract. This Contract shall be governed by the laws of the State of Arizona and suit pertaining to this Contract may be brought only in courts in the State of Arizona.

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

3.54 Contract Amendments. This Contract may be modified only by a written Contract Amendment approved by the City Council and signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor; provided, however, that Change Orders may be issued and approved administratively by the City when such changes do not alter the Contract Price.

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

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

3.57 Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.

3.58 Interpretation-Parol Evidence. This Contract represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by this Contract. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Contract. This Contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both parties. Any attempt at oral modification of this Contract shall be void and of no effect.

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

3.60 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material, service or construction specified herein without the prior written approval of the City. A Contractor acting as prime Contractor shall itemize in its Bid all Subcontractors that shall be utilized on the Project. Any substitution of Subcontractors by the Contractor must receive City approval prior to such substitution and any cost savings will be reduced from the Contractor's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to

**CITY OF AVONDALE**  
**WATER RESOURCES DEPARTMENT**  
**WR 10-003**

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the subcontract as if the Subcontractor were the Contractor referred to herein. The Contractor is responsible for Contract performance whether or not Subcontractors are used.

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

3.62 Notices and Requests. Any notice or other communication required or permitted to be given under this Contract 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 Contractor:                    \_\_\_\_\_  
   \_\_\_\_\_  
   \_\_\_\_\_  
   Facsimile: \_\_\_\_\_  
   Attn: \_\_\_\_\_

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.

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

3.64 Force Majeure. Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party, in accordance with Section 3.62, of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract. Force majeure shall not include the following occurrences:

A. Late Delivery. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies or similar occurrences.

B. Late Performance. Late performance by a Subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Section 3.64.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in accordance with Section 3.62 and shall make a specific reference to this subsection, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of Substantial Completion or Final Completion shall be extended by written Contract amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

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

3.66 Records and Audit Rights. Contractor's and Subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of any Contractor and Subcontractor employees who perform any work or services pursuant to this Contract to ensure that the Contractor and its Subcontractor are complying with the warranty under Section 3.67 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 Contractor's and its Subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Contract and (B) evaluation of the Contractor's and its Subcontractor's compliance with the Arizona employer sanctions laws referenced in Section 3.67 below. To the extent necessary for the City to audit Records as set forth in this Section, Contractor 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 from the effective date of this Contract for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Contract. The City shall have access, during normal working hours, to all necessary Contractor and Subcontractor facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this Section. The City shall give Contractor or Subcontractor reasonable advance notice of intended audits. Contractor shall require its Subcontractors to

comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Contract.

3.67 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor 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). Contractor's or its Subcontractor's failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by the City.

3.68 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Contractor 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 the Contractor submitted a false certification, the City may impose remedies as provided by law including terminating this Contract pursuant to Section 3.25 above.

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

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

3.71 Inspection. All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the Specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Upon discovery of a non-conforming material or services, the City may elect to do any or all of the following by written notice to the Contractor: (A) waive the non-conformance; (B) stop the work immediately; or (C) bring material or service into compliance and withhold the cost of same from any payments due to the Contractor.

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

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

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

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

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

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

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

#### PART D - ALTERNATIVE DISPUTE RESOLUTION

3.79 Scope. Notwithstanding anything to the contrary provided elsewhere in the Contract Documents, except for subsection 3.82(G) below, the alternative dispute resolution ("ADR") process provided for herein shall be the exclusive means for resolution of claims or disputes arising under, relating to or touching upon the Contract, the interpretation thereof or the performance or breach by any party thereto, including but not limited to original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

3.80 Neutral Evaluator, Arbitrators. The City will select a Neutral Evaluator to serve as set forth in this ADR process, subject to the Contractor's approval, which approval shall not be unreasonably withheld. In the event that the City and the Contractor are unable to agree upon a Neutral Evaluator, the neutral evaluation process shall be eliminated and the parties shall proceed with the binding arbitration process set forth in Section 3.82 below. The City and Contractor shall each select an arbitrator to serve as set forth in this ADR process. Each arbitrator selected shall be a member of the State Bar of the State of Arizona and shall have experience in the field of construction law. None of the arbitrators nor any of the arbitrator's firms shall have presently, or in the past, represented any party to the arbitration.

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

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

B. Non-Binding Informal Hearing. The Neutral Evaluator shall schedule a non-binding informal hearing of the matter to be held within seven calendar days from receipt of notification of the existence of a dispute. The Neutral Evaluator may conduct the hearing in such manner as he deems appropriate and shall notify each party of the hearing and of its opportunity to present evidence it believes will resolve the dispute. Each party to the dispute shall be notified by the Neutral Evaluator that the party shall submit a written outline of the issues and evidence intended to be introduced at the hearing and the proposed resolution of the dispute to the Neutral Evaluator before the hearing commences. Arbitrators shall not participate in such informal hearing

or proceedings process. The Neutral Evaluator is not bound by the rules of evidence when admitting evidence in the hearing and may limit the length of the hearing, the number of witnesses or any evidence introduced to the extent deemed relevant and efficient.

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

3.82 Binding Arbitration Procedure. The following binding arbitration procedure, except as provided in subsection 3.82(G) below, shall serve as the exclusive method to resolve a dispute if (A) the parties cannot agree to a Neutral Evaluator as set forth in Section 3.80 above or (B) any party chooses not to accept the decision of the Neutral Evaluator. The party requesting binding arbitration shall notify the Neutral Evaluator of a request for arbitration in writing within three Working Days of receipt of the Neutral Evaluator's decision. If the Contractor requests arbitration or if Contractor rejects the City's selection of a Neutral Evaluator, it shall post a cash bond with the Neutral Evaluator in an amount agreed upon by the parties or, in the event of no agreement, the Neutral Evaluator shall establish the amount of the cash bond to defray the cost of the arbitration as set forth in subsection 3.82(M) and the proceeds from the bond shall be allocated in accordance with subsection 3.82(M) by the Arbitration Panel.

A. Arbitration Panel. The Arbitration Panel shall consist of three arbitrators: the City's appointed arbitrator, the Contractor's appointed arbitrator and a third arbitrator (or "Neutral Arbitrator") who shall be selected by the parties' arbitrators as set forth in subsection 3.82(B) If more than one consultant or contractor is involved in a dispute, the consultants and/or contractors shall agree on an appointee to serve as arbitrator. The Neutral Evaluator shall not participate in the proceedings.

B. Selection of Neutral Arbitrator. The parties' arbitrators shall choose the Neutral Arbitrator within five business days of receipt of notification of a dispute from the Neutral Evaluator. The Neutral Arbitrator shall have the same qualifications as those of the arbitrators set forth in Section 3.82(A). In the event that the selected arbitrators cannot agree on the Neutral Arbitrator as set forth above, the Neutral Arbitrator shall be the Default Neutral Arbitrator, a person or entity jointly selected by the City and the Contractor. If the City and the Contractor cannot agree on a Default Neutral Arbitrator, the City and the Contractor shall each submit two names to an appropriate judge who shall select one person.

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

D. Procedure. The Arbitration Panel will select a Chairman and will conduct the hearing in such a manner that will resolve disputes in a prompt, cost efficient manner giving regard to the rights of all parties. Each party shall supply to the Arbitration Panel a written pre-hearing statement which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitration Panel shall review and consider the Neutral Evaluator decision, if any. The Chairman shall determine the nature and scope of discovery, if any, and 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 3.82(M) herein. The award is to be rendered in accordance with this Contract and the laws of the State of Arizona.

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

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

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

J. Severance and Joinder. To reduce the possibility of inconsistent adjudications: (1) the Neutral Evaluator or the Arbitration Panel may, at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and (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 Contractor, Architect/Engineer and Project professionals shall not be joined as a party to any claim made by a Contractor. Nothing herein shall create the right by any party to assert claims against another party not germane to the Contract or not recognized under the substantive law applicable to the dispute. Neither the Neutral Evaluator nor the Arbitration Panel are authorized to join to the proceeding parties not in privity with the City. Contractor can not be joined to any pending arbitration proceeding, without Contractor's express written consent, unless Contractor is given the opportunity to participate in the selection of the non-City appointed arbitrator.

K. Appeal. Any party may appeal (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 the Contract or (3) on the basis of any of the grounds provided in ARIZ. REV. STAT. § 12-1512, as amended. Appeals shall be to the Maricopa County Superior Court within 15 calendar days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this Section, but not to conduct a trial, entertain the introduction of new evidence or conduct a hearing de novo.

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

M. Fees and Costs. Each party shall bear its own fees and costs in connection with any informal hearing before the Neutral Evaluator. All fees and costs associated with any arbitration before the Arbitration Panel, including without limitation the Arbitration Panelists' fee, and the prevailing party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. In no event shall any Arbitrator's hourly fees be awarded in an amount in excess of \$200 per hour and (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 divided evenly between the City and the Contractor.

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

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

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

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

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

EXHIBIT A  
TO  
INVITATION FOR BID NO. WR 10-003

[Technical Specifications]

See following pages.

**VAN BUREN STREET 16-IN TRANSMISSION LINE  
103<sup>RD</sup> TO 105<sup>TH</sup> AVENUE  
TECHNICAL SPECIFICATIONS**

**Prepared by:**

**City of Avondale**

399 East Lower Buckeye Road, Suite 100

Avondale Arizona 85323

Business Phone 623-333-4400

**VAN BUREN STREET 16-IN TRANSMISSION LINE  
103RD TO 105TH AVENUE  
TECHNICAL SPECIFICATIONS  
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## **1.0 General Technical Requirements**

The following are non-payment items being considered incidental to the project, the costs of which are to be included in project overhead or within specific bid items.

### **1.1 Additional Reference Standards**

The following reference standards are added to Section 3.1 of the Contract's General Terms and Conditions and incorporated by reference.

- 1.1.1 The "ADOT Specifications" is more particularly defined as the Arizona Department of Transportation (ADOT), *Standard Specifications for Road and Bridge Construction*, 2000 Edition with latest revisions thru 2007.
- 1.1.2 U.S. Department of Transportation, *Manual on Uniform Traffic Control Devices (MUTCD)*, 2003 Edition, with latest revisions.
- 1.1.3 Latest revisions of ASTM, AWWA, ANSI, or Federal specifications, standards and details.
- 1.1.4 Latest revisions of MCDOT supplement to the MAG Uniform Specifications and Details for Public Works Construction, 2008.
- 1.1.5 In the event of a conflict between the Construction Drawings and the Contract language, the Contract language shall prevail.
- 1.1.6 In the event of a conflict between the ASTM, AWWA, ANSI, or Federal specifications, standards and details and the MAG Uniform Standard Specifications and Details for Public Works Construction or the City Supplement to MAG Uniform Standard Specifications and Details for Public Works Construction, the MAG Uniform Standard Specifications and Details for Public Works Construction and City Supplement to MAG Uniform Standard Specifications and Details for Public Works construction shall prevail.
- 1.1.7 In the event of a conflict between the AWWA, ANSI, or Federal specifications, standards and details and the Contract language, the Contract language shall prevail.
- 1.1.8 In the event of a conflict between the City of Phoenix Traffic Barricade Manual and the U.S. Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD), the City of Phoenix Traffic Barricade Manual shall prevail.

### **1.2 Other Agency / Utility Company Notifications / Protection of Existing Facilities**

The Contractor shall conduct their operations as set forth in Section 105.6 of the MAG Standard Specifications as modified by the MAG Supplement.

The following utility companies have facilities in the area of this project. It shall be the Contractor's responsibility to determine the exact location of the utilities prior to any

construction operations and to notify the below mentioned utility companies a minimum of five (5) working days prior to commencing any work on the project.

This Project does not intend to result in the relocation of existing utility facilities. Project components are intended to be field adjusted, as necessary, to avoid conflicts or provide required clearances to these existing utility facilities, as directed and/or approved by the Project Inspector.

**Salt River Project Electric**

**Steve Lopez (602) 236-3786**

There are underground electric lines within the project limits. The electric lines are not expected to be relocated. However, during water transmission line installation, care will need to be taken to maintain appropriate clearances from the electric line. Conflicts can be avoided if facilities are installed to provide a minimum 48-inch horizontal and 24-inch vertical face-to-face clearance at the point of crossing. Prior to any excavations, Contractor must call Blue Stake at (602) 263-1100 to accurately locate existing facilities. Contractor should hand dig carefully at these marked locations until the gas pipe has been found and exposed. Use care to avoid damaging or breaking a small electrical tracer wire (which is used for locating purposes) that may be buried with the pipe.

**Salt River Project Irrigation**

**Brenda Broadmax (602) 236-4769**

There are underground irrigation water lines and structures within the project limits. The irrigation water lines and structures are not expected to be relocated. However, during water transmission line installation, care will need to be taken to maintain appropriate clearances from the irrigation water lines and structures. Conflicts can be avoided if facilities are installed to provide a minimum 24 inches vertical and 48-inch horizontal face-to-face clearance at the point of crossing. Prior to any excavations, Contractor must call Blue Stake at (602) 263-1100 to accurately locate existing facilities. Contractor should hand dig carefully at these marked locations until the gas pipe has been found and exposed. Use care to avoid damaging or breaking the facilities.

**Southwest Gas Linda Murphy (602) 484-5431, Valerie Gallardo-Weller (602)484-5342**

There are underground natural gas lines within the project limits. The gas lines are not expected to be relocated. However, during water transmission line installation, care will need to be taken to maintain appropriate clearances from the gas line. Conflicts can be avoided if facilities are installed to provide a minimum 24 inches face-to-face clearance at the point of crossing. Prior to any excavations, Contractor must call Blue Stake at (602) 263-1100 so existing gas facilities may be accurately located. Contractor should hand dig carefully at these marked locations until the gas pipe has been found and exposed. Use care to avoid damaging or breaking a small electrical tracer wire (which is used for locating purposes) that may be buried with the pipe.

**Qwest Communications**

**Matthew Phillips (602) 630-1393**

Qwest Communications has telephone facilities located within the project limits as indicated on the Drawings.

At the crossing of underground Qwest facilities, the Quest line must be potholed, and a minimum separation of 24 inches vertical and 48-inch horizontal face-to-face horizontal must be maintained.

**Qwest Fiber Optic**

**Chris Lertique (602) 630-0492**

Qwest Fiber Optic has fiber optic facilities located within the project limits as indicated on the Drawings.

At the crossing of underground Qwest facilities, the Qwest line must be potholed, and a minimum separation of 24 inches vertical and 48-inch horizontal face-to-face clearance must be maintained.

**COX Communications Cable & Fiber Optic**

**Sandra Lambly (623) 328-4071**

Cox Communications has fiber optic facilities located within the project limits as indicated on the Drawings.

At the crossing of underground COX facilities, the COX line must be potholed, and a minimum separation of 24 inches vertical and 48-inch horizontal face-to-face clearance must be maintained.

**Landowner Contact**

The Contractor shall contact the landowner regarding impact of construction to the property to the north of the City right of way line along Van Buren Street. The Contractor shall protect the existing earthen berm on the property in place and shall repair and replace the berm in-kind due to any construction impact to the berm. No payment to the Contractor will be made to protect, repair or replace the berm as this is considered incidental to the work and shall be included in the Contractor's price. Contact must be made 5 working days before construction begins to coordinate land use schedules, etc. the contact is:

Tim Smith  
Sheely Farms  
623-694-8889

**1.3 Permits**

The City of Avondale Engineering Right-of- Way Permit fee will be waived for this project. All other required permits shall be the Contractor's responsibility to obtain and pay for including but not limited to; Maricopa County Environmental Dust Control Permit and City Fire Hydrant Meter fees. The cost for all permits shall be included in the Contractor's bid price.

**1.4 Sequence of Construction**

Night and week-end work is typically not allowed. The Contractor shall assume no night or weekend work, for bidding purposes.

Any activities that will affect traffic shall be pre-approved for times, days, and method by the City prior to implementation. Generally, no activities that affect traffic will be allowed between 7:00 a.m. – 9:00 a.m. or 3:30 p.m. to 6:00 p.m. Deviations may only occur when specifically approved by the City Engineer.

Work activities affecting the safety of pedestrians and bicyclists shall be reviewed and approved by the City in advance of the proposed operation. The Contractor shall be fully responsible for

the safety of the public during this Project, and shall exercise utmost care and diligence in providing a safe project environment for the public.

### **1.5 City-Furnished Materials**

The City will not be furnishing any materials for this project.

### **1.6 Miscellaneous Work**

#### *Potholing:*

Potholes have been completed for all known potential utility conflicts, and results shown on the plans. If further potholes are required, see the following.

All utility potholing in existing paved streets shall be done using the air/vacuum type method. Dimensions for the potholing pavement cuts shall be limited to 12 inch by 12 inch square holes. All potholes shall be backfilled and patched in accordance with MAG Detail No. 212. Backfill material shall be 1-sack CLSM per MAG Specifications, Section 728. Asphalt concrete pavement replacement shall use a City approved 12.5 mm or C-¾ hot mix design. Asphalt thickness shall be 6-in minimum or match existing, whichever is greater. Asphalt shall be placed and compacted in 2-in lifts. The asphalt patch shall be crack sealed afterward.

#### *Trench Plates:*

All trenching must be safely secured and barricaded at all times. Overnight trenching involving street cuts shall be steel plated in accordance with MAG Standard Detail No. 211. Steel plate installation shall be Type 2 (milled in) for arterial and collector streets. Type 1 (ramped) shall be allowed on local streets only. Plates are only allowed for a maximum period of five (5) business days after which the street must be permanently patched. Temporary asphalt patching, if allowed by the Engineering Inspector, is only allowed for a maximum period of five (5) business days after which the street must be permanently patched.

## **2.0 MEASUREMENT AND PAYMENT:**

### **2.1 General**

- Measurement for each bid item shall be done in the units installed or percent complete as indicated in the Contract's Price Sheet, Exhibit C. Measurement shall be for all work that is satisfactorily completed in place, with no allowance for waste, and that which is verified by field measurements.
- In general, payments to the Contractor shall be in accordance with "Payments to Contractor" of the Contract's General Terms and Conditions. Specific payment guidelines shall be in accordance with the MAG Specifications as applicable or as more particularly described below in Section 2.2, Items of Work, of these Specifications. Payment will be made at the unit price or lump sum price that was bid and is shown on the Price Sheet and shall constitute payment in full for furnishing all materials, equipment, appurtenances, labor, plant and tools necessary to provide a complete Project in a workmanlike and satisfactory manner as shown by the Contract Drawings and described herein.

## 2.2 Items of Work

The item numbers listed below correspond to the item numbers listed in the Bid Schedule.

***Bid Item 107.01500– Community Relations (Allowance):*** The main scope of work for this Bid Item is covered in the Contract Documents, General Terms and Conditions, “Public Information and Notification.” As detailed in the Contract Documents, the cost for one Project Sign, including installation, maintenance, labor and materials shall be a non-pay item and shall be considered incidental to the contract work. The cost for 1 each Project Sign shall be included in this Bid Item.

Measurement shall be per City-approved time and material invoices. The City will pay, based on time and material invoices, an amount up to and not to exceed five thousand dollars (\$5,000.00) for performing the required Public Information and Notification work, in accordance with the Contract Documents. Payment will be considered full compensation for the completed work including all labor, materials, equipment, and incidentals necessary to complete the work.

***Bid Item 107.03000– NPDES/SWPPP: A.Z.P.D.E.S.***

This project is subject to Arizona Pollutant Discharge Elimination System (A.Z.P.D.E.S.) requirements under the E.P.A. General Permit for Arizona. All subcontractors shall comply with all A.Z.P.D.E.S. requirements under the supervision of the General Contractor, and shall submit a completed, signed subcontractor certification form, thereby designating themselves as co-permittees. A bid item “SWPPP” necessary to carry out the S. W.P.P.P. will be included in the bid proposal as necessary. The Contractor will be expected to develop the S.W.P.P.P. and update/revise it as necessary throughout the construction of the project, in order to ensure compliance with the E.P.A. permit requirements. Revisions to the S. W.P.P.P. requiring use of the SWPPP bid item, or any other additional items, shall be subject to approval by the City of Avondale prior to implementation. The S.W.P.P.P. shall be kept at the project site at all times, and the final S. W.P.P.P. shall be retained by the Contractor for three years following project completion and final acceptance.

The Contractor shall submit a completed, signed N.O.I. form (including signed subcontractor certification forms) to Arizona Department of Environmental Quality (ADEQ) Water Permits Section/Stormwater NOI (5415B-3) 1110 W. Washington Street Phoenix, Arizona 85007 or fax to (602) 771-4674

Failure by the Contractor (or any applicable subcontractors) to submit the N.O.I. forms and certifications by the start of construction activities which leads to delays in meeting E.P.A. requirements will result in delay of the start of construction. The Contractor will not be entitled to any additional compensation for costs resulting from such delay of the construction start date and/or any construction activities. The N.O.I. shall be posted at the construction site along with the S.W.P.P.P. No construction activities shall begin until all applicable storm water pollution control devices are in place. Any additional work caused by the Contractor’s (or subcontractor’s) failure to properly implement the S.W.P.P.P. will not be compensated. The Contractor shall keep a copy of the latest STORM WATER GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES as printed in the Federal Register at the job site at all times. The Contractor shall keep a copy of the STORM WATER BASELINE CONSTRUCTION GENERAL PERMIT COVERAGE NOTICE received from the EPA (after submittal of the NOI) at the job site at all times.

All S.W.P.P.P. reports required under this contract shall be available to the public in accordance with the

requirements of Section 308 (b) of the Clean Water Act. The Contractor shall make plans available to the public upon request through the EPA.

No conditions of the Arizona General Permit or the S.W.P.P.P. shall release the Contractor from any responsibilities or requirements under other environmental statutes or regulations. Asphalt plant and concrete plants (including mobile plants) require separate A.Z.P.D.E.S. industrial permits.

Upon completion and acceptance of the work performed by a subcontractor co-permittee, either the Contractor or other subcontractors shall absolve such subcontractor of any involvement in, or responsibility for, any subsequent A.Z.P.D.E.S. violations on the project. Upon total project completion, acceptance, and de-mobilization, the Contractor shall submit a completed, signed N.O. T. form to Arizona Department of Environmental Quality (ADEQ) Water Permits Section/Stormwater NOI (5415B-3) 1110 W. Washington Street Phoenix, Arizona 85007 or fax to (602) 771-4674

As a minimum, the Contractor shall inspect all storm water pollution control devices on the project on a monthly basis, and following each rainfall of 0.50 inches or more (as measured at the nearest Flood Control District of Maricopa County rain gauge, or approved on-site rain gauge). The Contractor is also encouraged to inspect devices following rainfalls of less than 0.50 inches, as it is the Contractor's responsibility to ensure the proper operation of each device. The Contractor shall maintain a record of each inspection. No other separate measurements or payments will be made relative to S.W.P.P.P. items.

The unit prices bid for the contingent items that may be necessary to carry out the S.W.P.P.P. shall include all material, labor, and other incidental costs related to furnishing, installing, and maintaining each item during project construction. Some examples of incidental costs include, but are not limited to, periodic checks to ensure proper operation of pollution-control devices, maintenance, cleaning, repair, and disposal of device following storm events or other water runoff on the project.

***Bid Item 107.04000– Miscellaneous Reimbursable (Allowance):*** The City will pay, based on time and material invoices, an amount not to exceed twenty five thousand dollars (\$25,000) for furnishing labor, material and equipment for any item of work not covered by the contract plans and documents due to unforeseen field conditions but identified during the construction phase as necessary to complete the project. No work shall be performed under this item unless it is authorized, in writing, by the Engineer or their authorized representatives.

***Bid Item 108.01000– Construction Staking, Surveying and Layout:*** The work under this item shall consist of furnishing all materials, equipment, and labor necessary for providing construction survey, staking, and layout. This item must comply with MAG Specification 105.8 as modified by the MAG Supplement. Payment for Survey, Staking, and Layout will be on a lump sum basis. Interim payments for this item will be prorated (overall Project percent completion) over the Project's duration.

***Bid Item 108.01010– As-built Documents:*** The work under this item shall consist of furnishing all materials, equipment, and labor necessary for providing complete and competent as-built plans. As-built plans shall reflect all discrepancies from the plans, and shall accurately depict changes made in the field. The Contractor is responsible for preparing the final as-built drawings for the improvement plans. An Arizona registered civil engineer or registered land surveyor shall seal the final as-built plans. Final as built plans shall be on 4 MIL, double matte, MYLAR sheets and provided to the City for their files and records.

As-built documents shall conform to the requirements of the MAG Specifications, Sections 105.8 and 105.15, as modified by the MAG Supplement.

Payment for As-built Documents will be based on a lump sum basis. Interim payments for this item will be prorated (overall Project percent completion) over the Project's duration.

***Bid Item 109.09000– Mobilization/Demobilization:*** The City shall compensate the Contractor for a one time, round trip mobilization/demobilization of the Contractor's personnel equipment, supplies and incidentals, establishment of offices, buildings and other facilities, required for the performance of the work on the project, including preparatory work and operations prior to the commencement of the work on the project site.

Payment for mobilization/demobilization will be by lump sum as a single complete unit of work. Payment shall be made in two equal portions. The first payment shall be paid with the Contractor's initial billing and shall be made for half of the total line item price. The final payment shall be paid as part of the final payment due the Contractor, once the Project has been accepted as complete by the City.

***Bid Item 212.01000– Striping Replacement:*** Striping removed during construction shall be replaced to match existing per City standards. Prior to removal contact the City for inspection.

Payment shall be Lump Sum compensation in full for striping replacement complete and in-place.

***Bid Item 321.01300– Removal and Replacement of Asphaltic Concrete Pavement (2"-12.5 MM & 3"-19 MM & 1 Sack Controlled Low Strength Material):***

The work under this item shall consist of furnishing all materials, equipment, and labor for the sawcut and removal of existing asphalt concrete pavement, preparation of the 1 Sack Controlled Low Strength Material (CLSM) and the placement of New Asphalt Concrete Pavement to the limits shown on the plans.

New Asphalt Concrete Pavement shall be constructed per MAG Section 321, 702, and 710. Mix design should match City of Phoenix C - ¾ high volume mix or MAG Marshall Mix. Materials and mix design proposed to be used in the project must meet all the quality/design criteria prescribed for that specific material/design in the MAG Standard Specification Section 710 or elsewhere within the Standard Specification. 1 Sack CLSM shall be in accordance with MAG Standard Specifications. Mix design and materials submittals are required for review and approval by the City. Contractor shall be responsible for all costs incurred for resubmittal of rejected mix designs and or materials until they are approved by the City. The City reserves the right to have a test laboratory do quality assurance testing for pavement materials. The results may be used by the Engineer during the approval process.

Paving shall not commence until the City Engineer or their representative has accepted the CLSM base course. Payment will be made for all areas to receive asphalt concrete pavement including roadway, and driveway extensions to the right-of-way line. Payment will be made at the unit price bid per square yard, and such payment shall be compensation in full for the item complete in place.

***Bid Item 401.01000– Traffic Control:*** This Bid Item shall consist of providing all required traffic control devices, barricades, signage, flagmen, off-duty uniformed law enforcement officers, and pilot cars, if necessary, in accordance with approved traffic control plans. This item shall also consist of preparing and submitting certified traffic control plans to the City of Avondale for review and approval a minimum of 3 Avondale Business Days (M – TH) prior to the start of the related work. The plans must be complete, detailed and meet the City’s submittal guidelines. The work shall not start until the traffic control plans have been approved by the City. This work shall be in conformance with the “Traffic Regulations” Section of the General Terms and Conditions of the Contract Documents and the City’s MAG Supplement as applicable.

Payment for Traffic Control will be on a lump sum basis with the payment amount being prorated (overall project percent completion) over the project’s duration.

***Bid Item 610.02016 – 16” Ductile Iron Pipe (D.I.P.), Class 250, w/fittings, complete in place:***

The work under this item shall consist of furnishing all materials, equipment, and labor for the construction of a 16-inch Class 250 D.I.P. waterline shown on the plans in accordance with MAG standard specification sections 610, 611, and The City of Avondale Supplement to MAG Uniform Standard Specifications and Details for Public Works Construction. Unless noted otherwise the waterline should be polyethylene wrapped per MAG standard Section 610.6. This item shall include furnishing and installing all appurtenances and fittings. The work shall include excavation, removal of obstructions, pipe bedding, backfilling, compaction, sheeting and bracing, testing, supporting and protecting other utilities across trenches; furnishing and installing pipe, fittings, disposal of trench spoils, and appurtenances. Contractor shall field verify location of any crossing utilities and ensure a minimum 24-inch vertical and 48-inch horizontal separation between waterline and utility. All utilities should be protected in place. Pipe bedding, shading, and backfill not under pavement shall be 100% ABC (with the exception of the top 18-inches of the trench backfill shall be Native Material in accordance with MAG Standard Specifications), or 1 Sack CLSM (under pavement) as indicated on the plans. Work shall be measured by the horizontal linear foot. Payment will be made at the unit price bid per linear foot of constructed waterline, and such payment shall be compensation in full for the item complete in place.

***Bid Item 615.10016 – 16” Ductile Iron Pipe (D.I.P.), Class 250, w/fittings and restrained joints, complete in place:*** The work under this item shall consist of furnishing all materials, equipment, and labor for the construction of a 16-inch Class 250 D.I.P. waterline shown on the plans in accordance with MAG standard specification sections 610, 611, and The City of Avondale Supplement to MAG Uniform Standard Specifications and Details for Public Works Construction. Unless noted otherwise the waterline should be polyethylene wrapped per MAG standard Section 610.6 and restrained per MAG standard detail 303. This item shall include furnishing and installing all appurtenances and fittings. The work shall include excavation, removal of obstructions, pipe bedding, backfilling, compaction, sheeting and bracing, testing, supporting and protecting other utilities across trenches; furnishing and installing pipe, fittings, disposal of trench spoils, and appurtenances. Contractor shall field verify location of any crossing utilities and ensure a minimum 24-inch vertical and 48-inch horizontal separation between waterline and utility. All utilities should be protected in place. Pipe bedding, shading, and backfill not under pavement shall be 100% ABC (with the exception of the top 18-inches of the trench backfill shall be Native Material in accordance with MAG Standard Specifications),

or 1 Sack CLSM (under pavement) as indicated on the plans. Work shall be measured by the horizontal linear foot. Payment will be made at the unit price bid per linear foot of constructed waterline, and such payment shall be compensation in full for the item complete in place.

***Bid Item 630.60208– Air Release Valve, complete in place:*** The work under this item shall consist of furnishing all materials, equipment, and labor for installing a new air release valve, vault, all incidental piping, material, labor and appurtenances in accordance with City of Avondale standards and as indicated on the Drawings.

Payment shall be made based on a lump sum basis for the unit price for each bid item constructed. Payment shall be compensation in full for each bid item complete and in-place.

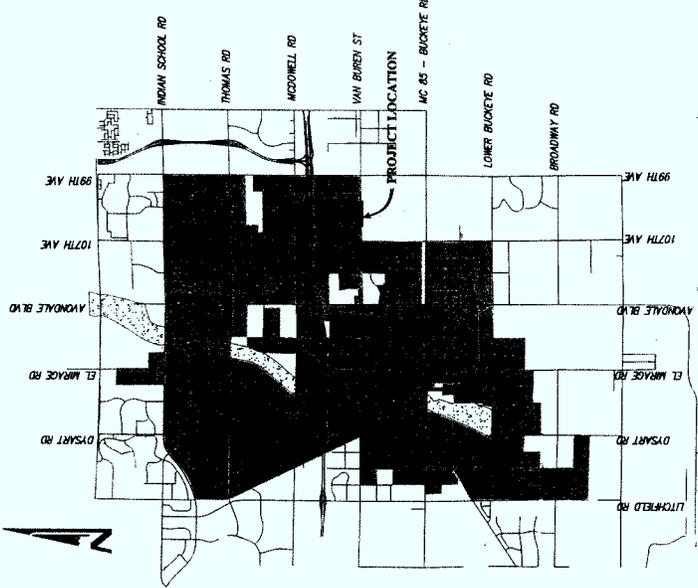
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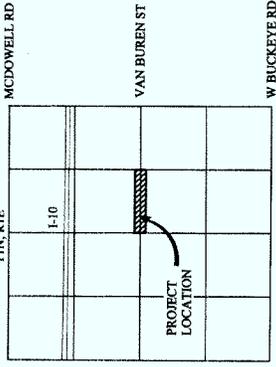
**VAN BUREN ST. 16-INCH TRANSMISSION LINE  
105TH AVE TO 103RD AVE  
CITY PROJECT NUMBER EN-08-017**

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH,  
RANGE 1 EAST, OF THE GILA AND SALT RIVER MERIDIAN, AVONDALE, MARICOPA COUNTY, ARIZONA

**CITY OF AVONDALE**  
MAYOR  
MARE LOPEZ-ROGERS  
COUNCIL MEMBERS  
STEPHANIE MARLIN  
FRANK SCOTT  
MI WOODWARD  
CHARLES WOLF  
CITY CLERK  
LINDA FARRIS  
ENGINEER  
LOCKWOOD, ANDREWS & NEWMAN, INC  
ESTREY A. FARRISWORTH, P.E.  
4700 E. SOUTHERN AVE  
PHOENIX, AZ 85034  
PHONE: (602) 591-4300  
FAX: (602) 778-1857  
BENCHMARK  
PRIMARY BENCHMARK  
TIN RIE  
SECTION 5, TIN RIE, GRADES POINT 44228-1M  
MAV088 ELEVATION = 1016.81  
TEMPORARY BENCHMARKS  
THE FOLLOWING TEMPORARY BENCHMARKS WERE DETERMINED BY DIFFERENTIAL LEVELING  
FROM THE PRIMARY BENCH MARK BY ATWELL-HICKS AS PART OF THIS SURVEY  
TIN RIE  
BRASS CAP FLUSH AT THE INTERSECTION OF 105TH AVE & VAN BUREN ST  
MAV088 ELEVATION = 1008.85  
TIN RIE  
COTTON PICKER SPINDLE AT NORTHEAST CORNER OF WATON BASIN, SOUTH SIDE OF VAN  
BUREN ST. APPROXIMATELY 100 EAST OF TEMPI  
MAV088 ELEVATION = 1006.95  
TIN RIE  
BRASS CAP ON TOP OF REINFORCING STRUCTURE, APPROXIMATELY 61'  
NORTHEAST OF THE S 1/4 CORNER, SEC. 5  
MAV088 ELEVATION = 1012.28  
BASIS OF BEARING  
THE BASIS OF BEARING IS THE MOMENT LINE OF VAN BUREN STREET BEARING SOUTH  
88°51'22" WEST AS SHOWN ON THE PLAN OF "THREE RIVERS COMMERCE PARK" RECORDED  
IN BOOK 886 PAGE 13, RECORDS OF MARICOPA COUNTY, ARIZONA.



AREA MAP  
N15



VICINITY MAP  
N15

**UTILITY NOTIFICATION**

IF UTILITIES HAVE BEEN SUBMITTED TO THE FOLLOWING UTILITY COMPANIES  
WHERE CONSTRUCTION WILL TAKE PLACE, THE CONTRACTOR SHALL BE RESPONSIBLE FOR  
SHALL BE RESOLVED AS SPECIFIED IN THE SPECIAL NOTES AND/OR AS OTHERWISE  
NOTED ON THESE PLANS. CONFLICTS ARISING DURING THE COURSE OF  
CONSTRUCTION FROM UNFORESEEN CIRCUMSTANCES SHALL BE REPORTED TO THE  
ENGINEER. PRIOR TO ANY WORK, CONTRACTORS ARE REQUIRED TO CALL ARIZONA  
BLUESTAKE CENTER AT 602-263-1100.

COMPANY REPRESENTATIVE	DATE
GUS WOODMAN	05-12-09
SANDRA LAMBY	03-12-09
CHRIS LERTHOE	03-12-09
STEVE LOPEZ	05-28-09
BRENDA BROADWAX	05-28-09
VALERIE GALLARDO-WELLER	06-01-09
VALERIE GALLARDO-WELLER	06-01-09

**SHEET INDEX**

SHEET NUMBER	SHEET TITLE
1.0	COVER SHEET
2.0	NOTES LEGEND & ABBREVIATIONS
3.0	18" WATER TRANSMISSION LINE PLAN AND PROFILE STA 10+00 TO 20+00
4.0	18" WATER TRANSMISSION LINE PLAN AND PROFILE STA 20+00 TO 33+28.17

**QUANTITIES**

DESCRIPTION	QUANTITY	UNITS
SHOULDER AND REPLACE PAVEMENT	42	SY
18" CLASS 500 DR WITH FITTINGS	1,289	LF
18" CLASS 500 DR WITH FITTINGS & RESTRAINED JOINTS	89	LF
REMOVE AND REPLACE 4" S&W DOUBLE YELLOW TRAFFIC LINE	30	LF
REMOVE AND REPLACE 4" S&W WHITE TRAFFIC LINE	10	LF
2" AIR RESIST PAINT	2	EA

LOCKWOOD, ANDREWS & NEWMAN, INC.  
1100 N CENTRAL #250  
PHOENIX, AZ 85034  
PHONE: (602) 591-4300  
FAX: (602) 778-1857

COVER SHEET

VAN BUREN ST. 16-INCH  
TRANSMISSION LINE  
105TH AVE TO 103RD AVE  
CITY PROJECT # EN-08-017

NO	REVISIONS	DATE
1	REVISION-1	
2	REVISION-2	
3	REVISION-3	
4	REVISION-4	
5	REVISION-5	

SCALE: 5/8"=1'-0"  
DATE: 06/25/09  
PROJECT NO: 100-0000-000  
SHEET NUMBER  
10



**APPROVALS**  
*Valerie Gallardo-Weller*  
DATE: 6/24/09  
*Steve Lopez*  
DATE: 6-19-09

**"AS-BUILT CERTIFICATION"**

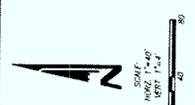
I HEREBY CERTIFY THAT THE "AS-BUILT" INFORMATION  
ON THESE PLANS IS CORRECT AND COMPLETE TO THE  
BEST OF MY KNOWLEDGE AND BELIEF.

REGISTERED LAND SURVEYOR/ENGINEER

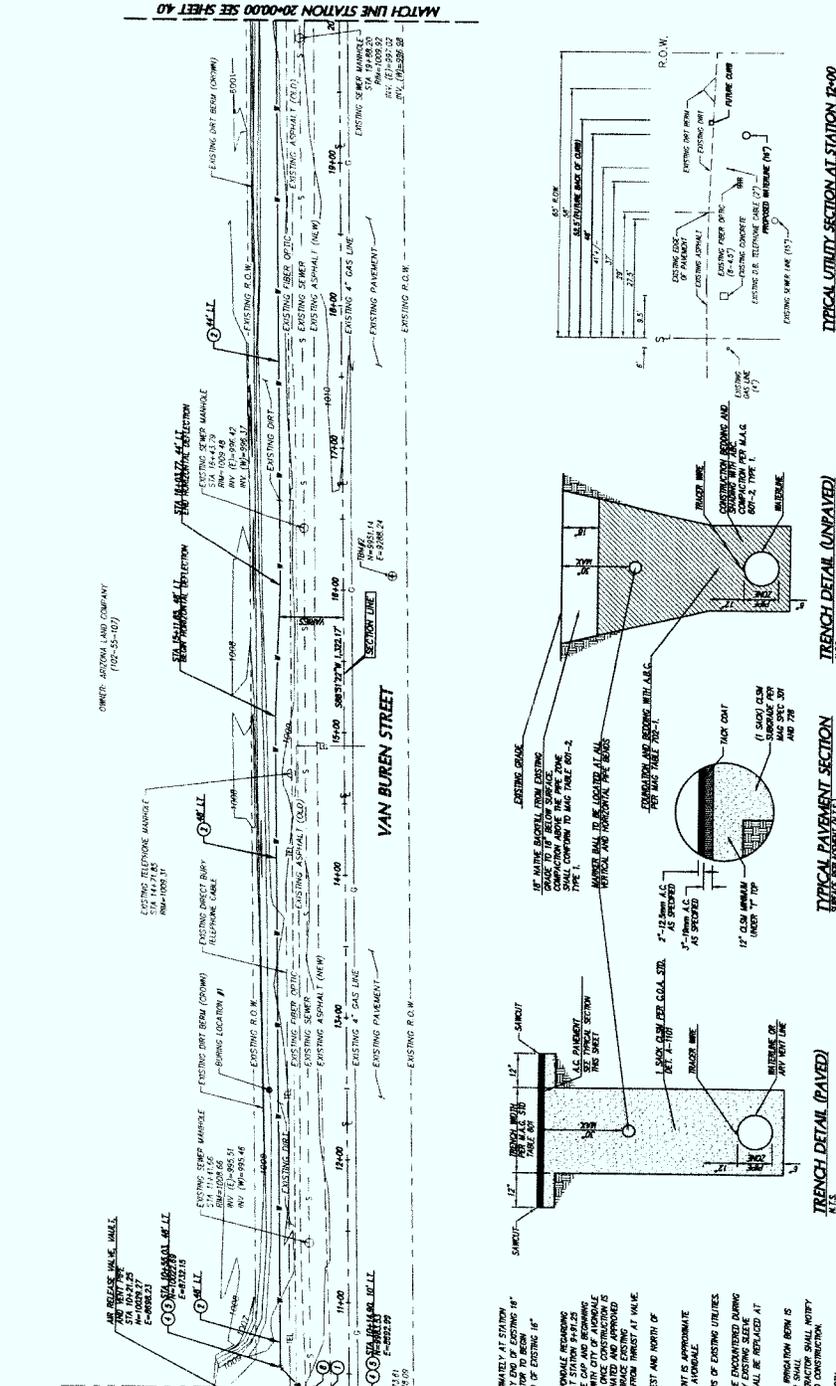
REGISTRATION NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
COMPANY NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
PHONE NUMBER: \_\_\_\_\_

**NOTE**  
ALL CONSTRUCTION SHALL BE IN ACCORDANCE  
WITH THE MOST RECENT EDITION OF THE CITY OF  
AVONDALE'S SUPPLEMENT AND STANDARD DETAILS  
SPECIFICATIONS AND STANDARD DETAILS  
CONSTRUCTION MANUAL. THE CITY  
OF AVONDALE'S ENGINEERING DEPARTMENT OR  
ENGINEER AT THE CITY OF AVONDALE'S OFFICE.

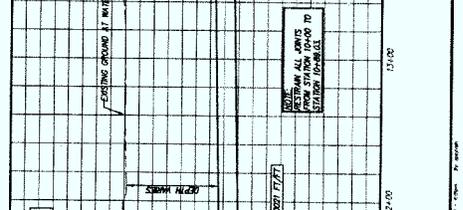
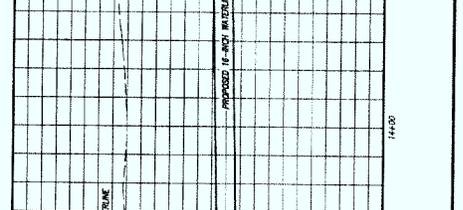
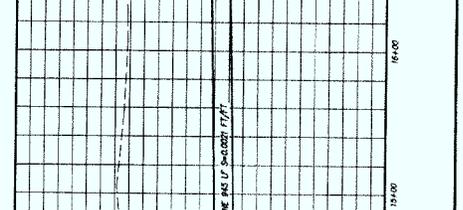
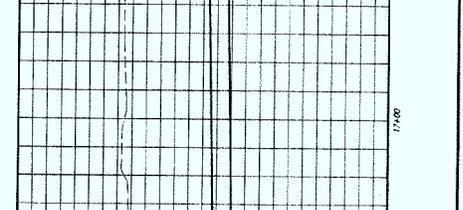
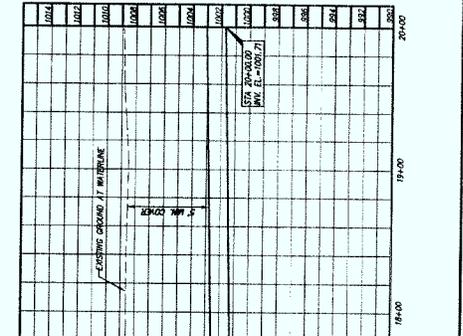




- CONSTRUCTION NOTES:**
1. QUANTITY BELIEVED
  2. SURVEY POINTS AND REFERENCE POINTS FOR NEW UTILITY ON THIS SHEET.
  3. ACTUAL NEW UTILITY PER NEW UTILITY SCHEDULE AND MATERIALS LIST.
  4. ACTUAL NEW UTILITY RESTRICTION PER NOTE 8.
  5. ACTUAL NEW UTILITY RESTRICTION PER NOTE 14.
  6. ACTUAL NEW UTILITY RESTRICTION PER NOTE 20.
  7. ACTUAL NEW UTILITY RESTRICTION PER NOTE 21.
  8. ACTUAL NEW UTILITY RESTRICTION PER NOTE 22.
  9. ACTUAL NEW UTILITY RESTRICTION PER NOTE 23.
  10. ACTUAL NEW UTILITY RESTRICTION PER NOTE 24.
  11. ACTUAL NEW UTILITY RESTRICTION PER NOTE 25.
  12. ACTUAL NEW UTILITY RESTRICTION PER NOTE 26.
  13. ACTUAL NEW UTILITY RESTRICTION PER NOTE 27.
  14. ACTUAL NEW UTILITY RESTRICTION PER NOTE 28.
  15. ACTUAL NEW UTILITY RESTRICTION PER NOTE 29.
  16. ACTUAL NEW UTILITY RESTRICTION PER NOTE 30.



- NOTES:**
1. LOCATION OF EXISTING UTILITY MANHOLE APPROXIMATELY AT STATION 10+00. CONTRACTOR TO LOCATE AND VERIFY END OF EXISTING UTILITY. CONSTRUCTION OF NEW UTILITY TO BE INITIATED AT END OF EXISTING UTILITY MANHOLE.
  2. CONTRACTOR TO COORDINATE WITH CITY OF AVONDALE REGARDING EXISTING UTILITY RECORDS AND RECORDS OF THE CITY OF AVONDALE. CONTRACTOR TO COORDINATE WITH CITY OF AVONDALE TO COMPLETE ALL OPERATIONS. CONTRACTOR TO BE COORDINATED AND APPROVED BY THE CITY OF AVONDALE. CONTRACTOR TO BRIDGE EXISTING UTILITY OVER NEW UTILITY. CONTRACTOR TO BRIDGE EXISTING UTILITY OVER NEW UTILITY.
  3. DO NOT DISTURB EXISTING UTILITY RECORDS. IF BRIDGING NEW UTILITY OVER EXISTING UTILITY, CONTRACTOR SHALL BRIDGE EXISTING UTILITY OVER NEW UTILITY.
  4. CONTRACTOR TO VERIFY LOCATION AND DEPTH OF EXISTING UTILITIES. CONTRACTOR TO VERIFY LOCATION AND DEPTH OF EXISTING UTILITIES. CONTRACTOR TO VERIFY LOCATION AND DEPTH OF EXISTING UTILITIES.
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STATION	DESCRIPTION	QUANTITY	UNIT
10+00	16" DIA. MANHOLE	1	EA
10+00	12" CONCRETE CURB	1	EA
10+00	12" CONCRETE BASE	1	EA
10+00	4" COMPACTED SUBGRADE	1	EA
10+00	16" DIA. MANHOLE	1	EA
10+00	12" CONCRETE CURB	1	EA
10+00	12" CONCRETE BASE	1	EA
10+00	4" COMPACTED SUBGRADE	1	EA
10+00	16" DIA. MANHOLE	1	EA
10+00	12" CONCRETE CURB	1	EA
10+00	12" CONCRETE BASE	1	EA
10+00	4" COMPACTED SUBGRADE	1	EA

STATION	DESCRIPTION	QUANTITY	UNIT
10+00	16" DIA. MANHOLE	1	EA
10+00	12" CONCRETE CURB	1	EA
10+00	12" CONCRETE BASE	1	EA
10+00	4" COMPACTED SUBGRADE	1	EA
10+00	16" DIA. MANHOLE	1	EA
10+00	12" CONCRETE CURB	1	EA
10+00	12" CONCRETE BASE	1	EA
10+00	4" COMPACTED SUBGRADE	1	EA
10+00	16" DIA. MANHOLE	1	EA
10+00	12" CONCRETE CURB	1	EA
10+00	12" CONCRETE BASE	1	EA
10+00	4" COMPACTED SUBGRADE	1	EA

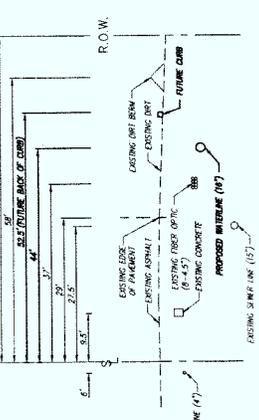
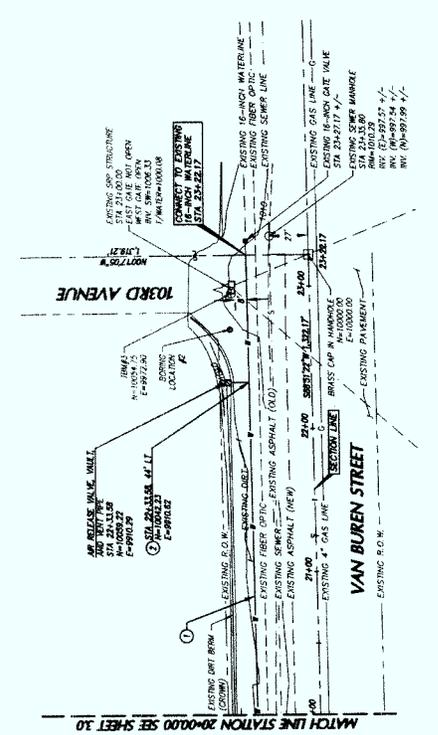


**CONSTRUCTION NOTES:**

NO.	DESCRIPTION	QUANTITY	SHEETS
1	INSTALL NEW 16" CP CLASS 300 WATERLINE	333 LF	1 EA
2	INSTALL 1" AIR RELIEF VALVE WITH 1/2" HOLE AND 1/2" HOLE AIR RELIEF VALVE STANDARD		
3	PROTECT WITH ONE POLYARD PER MAG FOR SET, PUL		

**NOTES:**

- CONTRACTOR TO TURN OFF GATE VALVE ONCE CONSTRUCTION IS COMPLETED.
- CONTRACTOR TO VERIFY LOCATIONS AND DEPTHS OF EXISTING UTILITIES.
- EXISTING SLURRIES AND/OR STRUCTURES MAY BE ENCOUNTERED DURING CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR IDENTIFYING AND/OR STRUCTURE DURING CONSTRUCTION SHALL BE REPLACED AT THE CONTRACTOR'S EXPENSE.
- DO NOT DISTURB EXISTING BRONZE VALVE. IF BRONZE VALVE IS DISTURBED DURING CONSTRUCTION CONTRACTOR SHALL NOTIFY THE CITY OF PHOENIX. CONTRACTOR SHALL NOTIFY LAND OWNER AND CITY OF APPLICABLE PRIOR TO CONSTRUCTION.
- SEE BRONZE DETAILS SHEET 1.0.
- PIPE QUANTITIES ARE STATION TO STATION LENGTHS.



**TYPICAL UTILITY SECTION AT STATION 21+00**

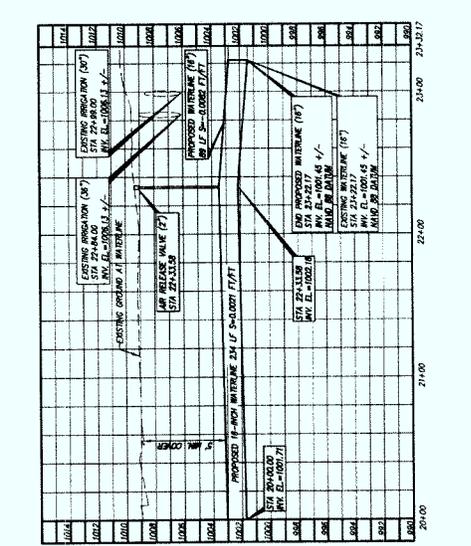


EXHIBIT B  
TO  
INVITATION FOR BID NO. WR 10-003

[Price Sheet]

See following page.

PRICE SHEET  
VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
WR 10-003

Item	Description of material and/or services	Quantity	Unit	Unit Price	Extended Price
107.01500	Community Relations (Allowance)	1	LS	\$5,000	5000.00
107.03000	NPDES/SWPPP	1	LS	1500.00	1500.00
107.04000	Miscellaneous Reimbursable (Allowance)	1	LS	\$25,000	25000.00
108.01000	Construction Staking, Surveying and Layout	1	LS	1500.00	1500.00
108.01010	As-built Documents	1	LS	500.00	500.00
109.09000	Mobilization/Demobilization	1	LS	5500.00	5500.00
212.01000	Striping Replacement	1	LS	500.00	500.00
321.01300	Removal and Replacement of Asphalt Concrete Pavement	42	SY	48.00	2016.00
401.01000	Traffic Control	1	LS	1500.00	1500.00
610.02016	16" DIP Waterline, Class 250, w/fittings, complete in place	1258	LF	52.00	65416.00
615.10016	16" DIP Waterline, Class 250, w/fittings, and restrained joints, complete in place	89	LF	180.00	16020.00
630.60208	Air Release Valve, per detail and City Specifications	2	EA	3100	6200.00
	SUBTOTAL				130652.00
	TAX (as applicable)	1	LS		4728.00
	TOTAL BID AMOUNT				135380.00

EXHIBIT C  
TO  
INVITATION FOR BID NO. WR 10-003

[Bid Bond]

See following page.

BID BOND  
VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
WR 10-003

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, CityWide Contracting, LLC  
(hereinafter called Principal), as Principal, and Berkley Regional Insurance Company,  
a corporation organized and existing under the laws of the State of  
Delaware with its principal office in the City of  
Greenwich, CT, (hereinafter called the Surety), as Surety, are held and firmly bound unto the  
City of Avondale, (hereinafter called the Obligee) in the penal sum of Ten Percent (10%) of Bid Amount,  
Ten Percent of Amount Bid (Dollars) (\$10% of Amount Bid) lawful money of the United States of  
America, to be paid to the order of the City of Avondale, for the payment whereof, the said Principal and Surety  
bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly  
by these presents and in conformance with A.R.S. Section 34-201.

WHEREAS, the Principal has submitted a bid/proposal for: Van Buren Street 16" Transmission Line  
103rd to 105th Ave

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

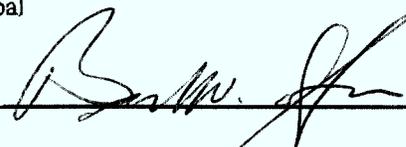
The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees  
that may be fixed by a judge of the Court.

Witness our hands this 22nd day of July 2009.

CityWide Contracting, LLC

Principal

Seal

BY: 

Berkley Regional Insurance Company

Surety

Seal

BY: 

Jennifer Castillo, Attorney-in-fact

Paffenbarger & Walden, LLC

Agency of Record

POWER OF ATTORNEY
BERKLEY REGIONAL INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY REGIONAL INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, Connecticut, has made, constituted and appointed, and does by these presents make, constitute and appoint: Andrew J. Paffenbarger, Joseph A. Clarken, III, Scott Wareing, Diane L. Arment or Jennifer Castillo of Paffenbarger & Walden, LLC of Phoenix, AZ

its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Thirty Million and 00/100 Dollars (\$30,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on August 21, 2000:

"RESOLVED, that the proper officers of the Company are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued."

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 1 day of March, 2007.

Attest:
By [Signature]
Ira S. Lederman
Senior Vice President & Secretary

Berkley Regional Insurance Company
By [Signature]
Robert P. Cole
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT )
) ss:
COUNTY OF FAIRFIELD )

Sworn to before me, a Notary Public in the State of Connecticut, this 1 day of March, 2007, by Robert P. Cole and Ira S. Lederman who are sworn to me to be the Senior Vice President, and the Senior Vice President and Secretary, respectively, of Berkley Regional Insurance Company.

EILEEN K. KILLEN
NOTARY PUBLIC
NOT COMMISSION EXPIRES 6/30/2007

[Signature]
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY REGIONAL INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 22nd day of July, 2009

(Seal) [Signature]
John F. Beers

WARNING: Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and confirmation for reversal must be in blue ink.

## Instructions for Inquiries and Notices Under the Bond Attached to This Power

Berkley Surety Group, LLC is the affiliated underwriting manager for the surety business of: Acadia Insurance Company, Berkley Regional Insurance Company, Carolina Casualty Insurance Company, Union Standard Insurance Company, Continental Western Insurance Company, and Union Insurance Company.

To verify the authenticity of this bond, please call (866) 768-3534 or email [BSGInquiry@wbsuresurety.com](mailto:BSGInquiry@wbsuresurety.com)

---

Any written notices, inquiries, claims or demands to the surety on the bond to which this Rider is attached should be directed to:

Berkley Surety Group, LLC  
412 Mount Kemble Avenue  
Suite 310N  
Morristown, NJ 07960  
Attention: Surety Claims Department

Or

email [BSGClaims@wbsuresurety.com](mailto:BSGClaims@wbsuresurety.com)

Please include with all notices the bond number and the name of the principal on the bond. Where a claim is being asserted, please set forth generally the basis of the claim. In the case of a payment or performance bond, please identify the project to which the bond pertains.

BID BOND  
VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
WR 10-003

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, \_\_\_\_\_  
(hereinafter called Principal), as Principal, and \_\_\_\_\_,  
a corporation organized and existing under the laws of the State of \_\_\_\_\_,  
with its principal office in the City of \_\_\_\_\_, (hereinafter called the Surety), as Surety, are held and firmly bound unto the  
City of Avondale, (hereinafter called the Obligee) in the penal sum of Ten Percent (10%) of Bid Amount,  
\_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_) lawful money of the United States of  
America, to be paid to the order of the City of Avondale, for the payment whereof, the said Principal and Surety  
bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly  
by these presents and in conformance with A.R.S. Section 34-201.

WHEREAS, the Principal has submitted a bid/proposal for: \_\_\_\_\_.

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

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

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

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

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

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

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

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

EXHIBIT D  
TO  
INVITATION FOR BID NO. WR 10-003

[Performance Bond]

See following page.

PERFORMANCE BOND  
VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
WR 10-003

KNOW ALL PERSONS BY THESE PRESENTS:

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

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

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of the Contract during the original term of the Contract and any extension of the Contract, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of the Contract 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 the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this agreement.

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

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

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

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

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

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

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

EXHIBIT E  
TO  
INVITATION FOR BID NO. WR 10-003

[Payment Bond]

See following pages.

PAYMENT BOND  
VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
WR 10-003

KNOW ALL PERSONS BY THESE PRESENTS:

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

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

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the 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 work provided for in the Contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 2, Article 2, 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 a judge of the Court.

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

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

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

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

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

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

EXHIBIT F  
TO  
INVITATION FOR BID NO. WR 10-003

[Licenses; DBE/WBE Status]

See following page.

IMPORTANT NOTICE  
YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY **IN WRITING** WITHIN 15 DAYS. (SEE A.R.S. § 32-1154(A)(19) AND § 32-1151.01)
- 2.) REPORT A CHANGE OF ADDRESS **IN WRITING** WITHIN 30 DAYS. (SEE A.R.S. § 32-1122(B)(1))
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY. (SEE A.R.S. § 32-1151.01)
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY SUCH AS ANY CHANGE IN THE OWNERSHIP OF SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. (SEE RULE R4-9-110)

CITYWIDE UTILITY COMPANY L L C  
4114 E WASHINGTON STREET  
PHOENIX AZ 85034

**THIS IS YOUR IDENTIFICATION CARD  
DO NOT DESTROY**



LLC



LICENSE EFFECTIVE THROUGH:

STATE OF ARIZONA

JUL 2011

Registrar of Contractors CERTIFIES THAT

CITYWIDE UTILITY COMPANY L L C

CONTRACTORS LICENSE NO. ROC256685 CLASS A-

GENERAL ENGINEERING

COMMERCIAL ONLY

THIS CARD MUST BE  
PRESENTED UPON DEMAND

*William A. Munsell*

DIRECTOR, ARIZONA REGISTRAR OF CONTRACTORS



ARIZONA DEPARTMENT OF REVENUE  
LICENSE & REGISTRATION SECTION

1600 WEST MONROE  
PHOENIX, ARIZONA 85007-2650

MUST BE  
DISPLAYED IN A  
CONSPICUOUS PLACE

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

-NOT TRANSFERABLE-

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

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

ISSUED  
TO

CITY WIDE CONTR LLC  
813 E BUCKEYE RD  
PHOENIX

AZ 850344036

15 BUSINESS CODE

ALL communications  
and Reports MUST  
REFER to this  
LICENSE NO.

07-550351-D

07-24-1997 EFFECTIVE DATE

(OBA) CITY WIDE CONTR LLC  
813 E BUCKEYE RD  
PHOENIX

AZ 85034 (REISSUE)

PRINT DATE

09-01-2000

LICENSES; DBE/WBE STATUS  
VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
WR 10-003

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

**Attach a copy of your Business License to your bid submittal.**

\* Business License must be either a City of Avondale Privilege Tax Business License or a  
Arizona Transaction Tax (sales) Privilege Tax License

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

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

EXHIBIT G  
TO  
INVITATION FOR BID NO. WR 10-003

[References]

See following page.

REFERENCES  
 VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
 WR 10-003

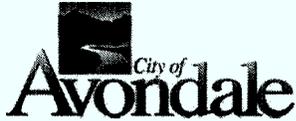
Provide the following information for three (3) clients for whom Bidder has provided services of **similar size and scope** with the past (36) months. *These references will be checked*, so make sure all information is accurate and current. Failure to provide three (3) accurate or suitable references will result in disqualification.

1. Client: Gila River Indian Community  
 Address: 186 S. Skill Rd  
 City/State/Zip Code: Sacaton AZ 85247  
 Contact: Ron Collins  
 Telephone Number: 520-562-6080  
 Date of Contract Initiation: 08/06  
 Project Description:  
 (Include Final Construction Costs) 12" water main installation - \$699,120<sup>00</sup>
  
2. Client: City of Scottsdale  
 Address: 7447 E. Indian School Rd  
 City/State/Zip Code: Scottsdale, AZ 85251  
 Contact: Vivek Galav  
 Telephone Number: 480-312-7245  
 Date of Contract Initiation: 09/08  
 Project Description:  
 (Include Final Construction Costs) Rose Garden West. 12" water main installation  
 \$ 516,402
  
3. Client: Farnsworth Development  
 Address: 2233 S. Springwood Blvd  
 City/State/Zip Code: Mesa AZ 85209  
 Contact: Craig Ahlstrom  
 Telephone Number: 480-984-4999  
 Date of Contract Initiation: 12-06  
 Project Description:  
 (Include Final Construction Costs) Signal Butte Road Improvement / sunland  
 Springs Village - 20" water main installation  
 \$1,673,750<sup>00</sup>

EXHIBIT H  
TO  
INVITATION FOR BID NO. WR 10-003

[Federal Requirements]

Not applicable to this Project.



## INVITATION FOR BIDS

VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
(WR 10-003)

### Addendum No. 1

Date: July 20, 2009  
From: Mike Smith, City Representative  
Subject: Addendum No. 1 to the Invitation for Bids No. WR 10-003  
Bid Deadline: July 22, 2009, 3:00 P.M. local time, Phoenix, Arizona

### SCOPE

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

This Addendum No. 1 consists of changes to the Exhibit A (Technical Specifications) attached to Invitation for Bids No. WR 10-003 released on July 2, 2009.

### ADDENDUM

1. Exhibit A, Technical Specifications, Bid Item 321.01300, hereby amended to read as follows:

***Bid Item 321.01300– Removal and Replacement of Asphaltic Concrete Pavement (2" 12.5 MM & 3" 19 MM & 1 Sack Controlled Low Strength Material) (5" MAG Marshall Mix & 12" ABC):***

The work under this item shall consist of furnishing all materials, equipment, and labor for the saw cut and removal of existing asphalt concrete pavement, preparation of 12" ABC ~~the 1 Sack Controlled Low Strength Material (CLSM)~~ and the placement of New Asphalt Concrete Pavement to the limits shown on the plans.

NEW ASPHALT CONCRETE PAVEMENT SHALL BE CONSTRUCTED PER MAG SECTION 321, 702, AND 710. MIX DESIGN SHOULD MATCH 5" HIGH VOLUME MAG MARSHALL MIX ~~City of Phoenix C-¾ high volume mix or MAG Marshall high volume Mix~~. Materials and mix design proposed to be used in the project must meet all the quality/design criteria prescribed for that specific material/design in the MAG Standard Specification Section 710 or elsewhere within the Standard Specification. ~~1 Sack CLSM shall be in accordance with MAG Standard Specifications~~. Mix design and materials submittals are required for review and approval by the City. Contractor shall be responsible for all costs incurred for resubmittal of rejected mix designs and or materials until they are approved by the City. The City reserves the right to have a test laboratory do quality assurance testing for pavement materials. The results may be used by the Engineer during the approval process.

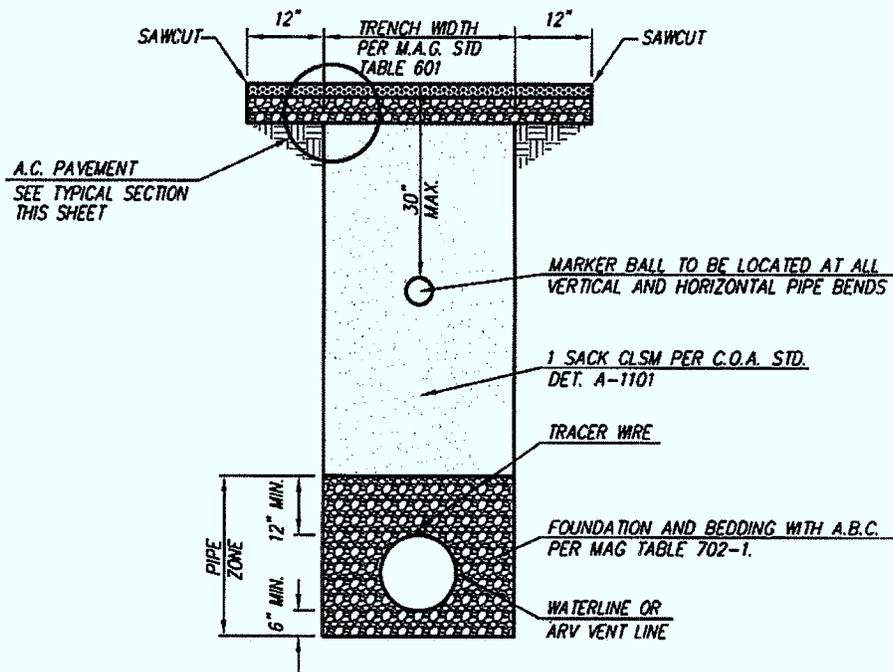
Paving shall not commence until the City Engineer or their representative has accepted the ~~CLSM~~ ABC base course. Payment will be made for all areas to receive asphalt concrete pavement including roadway, and driveway extensions to the right-of-way line. Payment will be made at the unit price bid per square yard, and such payment shall be compensation in full for the item complete in place.

2. Exhibit A, Technical Specifications, Sheet 3.0 of the Plans, Plan Details relating to "Trench Detail (Paved) and Typical Pavement Section," is hereby amended and replaced with "Typical Trench Details/Surface Replacement" attached to this Addendum No. 1 and Exhibit 1 and incorporated herein by this reference.

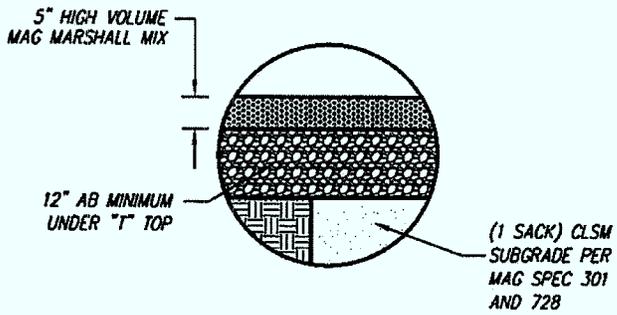
EXHIBIT 1  
TO  
ADDENDUM NO.1  
TO  
INVITATION FOR BIDS NO. WR 10-003

(Plan Detail of Plan Sheet 3.0)

See following page.



**TRENCH DETAIL (PAVED)**  
N.T.S.



**TYPICAL PAVEMENT SECTION**  
SURFACE REPLACEMENT (N.T.S.)

**TYPICAL TRENCH DETAILS/SURFACE REPLACEMENT**

**AD-1**

SCALE: NTS      DATE: 07/15/09  
 DESIGNED BY: APS  
 DRAWN BY: APS  
 CHECKED BY: BER  
 APPROVED BY: BER  
 PROJECT NO: 130-10989-000

**VAN BUREN ST. 16-INCH TRANSMISSION LINE**  
**105TH AVE TO 103RD AVE**  
**CITY PROJECT # EN-08-017**  
**ADDENDUM #1**

**lan**  
**Lockwood, Andrews & Newnam, Inc.**  
 A LEO A DALY COMPANY  
 3344 East Camelback Road Phoenix, AZ 85018

CITY OF AVONDALE  
ACKNOWLEDGMENT OF ADDENDA RECEIVED  
INVITATION FOR BIDS

VAN BUREN STREET 16-IN TRANSMISSION LINE, 103RD TO 105TH AVENUE  
(WR 10-003)

**Addendum No. 1**

City Wide Contracting, LLC., affirms that ADDENDUM No. 1 has  
(Name of Vendor/Designee)  
been received and that the information contained in ADDENDUM No. 1 has been incorporated  
in formulating the Contractor's Offer.

Dan Jones, 7/22/09  
Signed Date

Dan Jones  
Print Name

owner/member  
Title

City Wide Contracting, LLC.  
Company Name

4114 E. Washington Street  
Address

Phoenix, AZ 85034  
City, State Zip

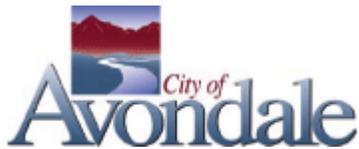
END OF ADDENDUM No. 1

EXHIBIT I  
TO  
INVITATION FOR BID NO. WR 10-003

[Acknowledgments of Addenda received]

See following pages.

\*All Addenda, if any, together with original, signed acknowledgments, issued for this IFB are to be attached by Bidder as this Exhibit I and submitted with the sealed Bid.



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2849-809 - Fort McDowell Yavapai  
Nation Grant Award of \$10,000 for Project REAL.

**MEETING DATE:**

August 10, 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 adopt a resolution authorizing an agreement with the Fort McDowell Yavapai Nation for the purpose of accepting grant funding for Project REAL in the amount of \$10,000.

**BACKGROUND:**

A United States Department of Health and Human Services study found that students who don't spend time in after-school program were 49% more likely to have used drugs, compared to those who spent one to four hours a week in such programs (National Youth Violence Prevention Resource Center 2001). From 2002 - 2006, the 85323 zip code has seen a 46% increase in the number of juvenile complaints (from 542 in 2002 to 1,009 in 2006). Avondale is now ranked second out of the top 20 zip codes for juvenile complaints in Maricopa County. Estimates suggest that Avondale's population will exceed 100,000 in the next ten years. In light of these factors, there is an apparent and immediate need to implement effective strategies to address a growing population of at risk youth and delinquent youth.

**DISCUSSION:**

In response to this growing need, the City of Avondale has partnered with the Tolleson Union School District and other youth services organizations to provide free after school youth development programming. The Project REAL youth development program was created to address the needs of adolescents who may be at risk of gang involvement, drug use, truancy, poor academic performance and other delinquent behavior. Project REAL accomplishes this by offering a strategic set of programs that promote: self esteem, gang resistance skills, education, decision making, creative expression, and service to the community.

Project REAL offers Avondale teens ages 13 - 17 a variety of free youth development programs and activities during after school hours at La Joya Community High School. The program runs after regular school days. Project REAL programming is designed to enhance self-esteem, values and life skills while providing youth with positive recreational outlets that promote physical activity and a healthy lifestyle. Programs and activities will be provided in the following core areas:

Education & Careers - Programming and activities within the Education & Careers core area focus on providing youth with valuable work readiness skills that can be applied to today's most in demand career fields. Participants will also engage in activities that promote high school graduation, academic success and post secondary education.

Leadership - Programming and activities within the Leadership core area focus on service learning and civic involvement. Participants will gain marketable leadership and project management skills while learning the value of volunteerism and civic pride.

Health & Recreation - Programming and activities in the Health & Recreation core area promote the constructive recreational outlets that enhance physical fitness, self esteem, positive social environments, and an overall healthy lifestyle. Participants will also be engaged in activities that build drug resistance and sexual abstinence skills.

Fine Arts - Programming and activities within the Fine Arts core area include: Dance, visual art, drama, music and programs that enhance multi-cultural appreciation and promote creative expression, and self esteem.

Funding from the Fort McDowell Yavapai Nation will be used to increase program staffing levels and enhance the overall impact of the Project REAL program.

**BUDGETARY IMPACT:**

Grant funding for this project is \$10,000 and there are no match requirements.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution authorizing an agreement with the Fort McDowell Yavapai Nation for the purpose of accepting grant funding for Project REAL in the amount of \$10,000.

**ATTACHMENTS:**

Click to download

 [Resolution 2849-809](#)

**RESOLUTION NO. 2849-809**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE FORT MCDOWELL YAVAPAI NATION RELATING TO PROPOSITION 202 FUNDING.

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

SECTION 1. That the Intergovernmental Agreement between the City of Avondale and the Fort McDowell Yavapai Nation relating to Proposition 202 funding for promotion of tourism and other public programs (the “Agreement”) is hereby approved substantially in the form attached hereto as Exhibit A and incorporated herein by reference.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

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

ATTEST:

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

APPROVED AS TO FORM:

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

EXHIBIT A  
TO  
RESOLUTION NO. 2849-809

[Intergovernmental Agreement]

See following pages.

**Intergovernmental Agreement**

**Between**

**The City of Avondale and The Fort McDowell Yavapai Nation**

**To**

**Provide Funds For Promoting Tourism and other Public Programs**

**in the City of Avondale**

**And**

**Surrounding Communities**

**Pursuant To A Tribal Revenue Sharing Agreement**

**Authorized By**

**Section 12 Payment of Regulatory Costs; Tribal Contributions**

**Fort McDowell Yavapai Nation and State of Arizona**

**Gaming Compact 2002,**

**And**

**A.R.S. § 5-601.02**

**Fort McDowell, Arizona**

**Intergovernmental Agreement  
Between  
The City of Avondale and The Fort McDowell Yavapai Nation to  
Provide Funds for Promoting Tourism and other Public Programs  
in the City of Avondale and Surrounding Communities**

This Intergovernmental Agreement (this “Agreement”) is entered into by and between the City of Avondale, an Arizona municipal corporation (the “City”) and the Fort McDowell Yavapai Nation (the “Nation”), a Federally-Recognized Indian Tribe, pursuant to Section 12 Payment of Regulatory Costs; Tribal Contributions (“Section 12”) of the Fort McDowell Yavapai Nation and State of Arizona Gaming Compact 2002 (the “Compact”) and A.R.S. § 5-601.02.

**Recitals**

- A. City and Nation may enter into an agreement with one another for the distribution of 12% of the Nation’s annual contribution under Section 12(b)(1) of the Compact to cities, towns, or counties that benefit the general public or promote commerce and economic development and pursuant to A.R.S. § 5-601.02.
- B. The Nation is authorized by Section 13(A)(15) of Article V, Legislative Branch, of the Constitution of the Fort McDowell Yavapai Nation to consult, negotiate, contract and conclude and perform agreements with Federal, state, local governments and Indian tribes, as well as any person, association, partnership, corporation, government or other private entity.
- C. The City is authorized by A.R.S. §§ 5-601.02 and 11-952 to enter into agreements with Indian Tribes for the purpose of accepting distributions to cities, towns or counties for governmental services that benefit the general public, including public safety, mitigation of impacts of gaming, or promotion of commerce and economic development.
- D. City and Nation desire to enter into this Agreement to provide funds for the purpose of promoting tourism and other public programs in the State of Arizona and specifically the City of Avondale and surrounding communities, as designated by the Nation, hereinafter referred to as the “Designated Projects”, as more particularly described in Exhibit A attached hereto and incorporated herein by reference.
- E. City and Nation desire to enter into this Agreement to define the terms and conditions of the Nations’ funding of the Designated Projects.
- F. The total cost of the Designated Projects is Ten Thousand Dollars (\$10,000.00) and zero cents.
- G. \$10,000.00 is hereby made available for the Designated Projects from revenue generated by the Nation’s Gaming Enterprise also known as the Fort McDowell Casino.
- H. The Nation intends to provide \$10,000.00 (the “Funds”), which represents a portion of its contribution pursuant to a Tribal Revenue Sharing Agreement authorized by Section 12 of the Compact and A.R.S. § 5-601.02 to complete the Designated Projects.

## Agreement

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, and the covenants and promises set forth below, the Nation and the City, hereby mutually agree as follows:

1. **Designated Projects.** The Designated Projects consist of the Nation providing the Funds to the City or entities within the City of Avondale to promote tourism and other public programs in the City of Avondale and surrounding area, as identified in the attached Exhibit A.
2. **Disbursement of Funds.** After receipt of the Funds the City shall send a payment to any such Designated Entity or Agency in the amount of the payment received from the Nation.
3. **Consideration and Reliance.** The Nation expressly acknowledges that the City's promise to accept and disburse to the Designated Entities all Funds received by the City pursuant to this Agreement is full and adequate consideration and shall render this promise to provide funding irrevocable, and this Agreement shall constitute a binding obligation of the Nation under applicable law.
4. **Limited Duties of City.** The Nation further expressly agrees that, except as specifically set forth in this Agreement, the City has no duties under or related to this Agreement other than to receive the Funds and deliver same to the Designated Entities; selection of Designated Entities and determination as to the amount of funding are solely at the discretion of the Nation. The Parties agree that there are no third-party beneficiaries to this Agreement.
5. **Financing; Verification of Payment.**
  - A. *Nation Deposit.* The Nation shall deposit with the City the amount of \$10,000.00 within thirty (30) days of the Effective Date of this Agreement to be disbursed according the Designated Project amounts in Exhibit A.
  - B. *Verification of Payment.* At the request of the Nation, the City shall provide a verification of payment to the Designated Entities. The City's responsibility is limited to disbursement to each Designated Entities and the City's has no further duty with regard to third party Agreements executed between the Nation and Designated Entities, provided that the disbursement is complete.
6. **Inspection and Audit.** To ensure compliance with the City's limited duties herein, the Nation may inspect any and all records maintained by the City with respect to the Project upon seven (7) days prior, written notice to the City. This Section 6 shall survive termination, cancellation, or revocation, whether whole or in part, of this Agreement for a period of one (1) year following the date of such termination, cancellation, or revocation.
7. **Term and Termination of Agreement.**
  - A. *Effective Date.* This Agreement shall be effective on the date it is signed by the Nation's authorized representative.
  - B. *Term.* This Agreement shall commence upon the Effective Date and shall terminate when the funds have been received by the City and disbursed to the Designated Entities.
  - C. *Termination.* The Nation may terminate this Agreement with or without cause at any time prior to providing payment to the City, provided that such notice shall be in writing and delivered to the parties' designated representatives, as set forth in the Notice section.

**8. Indemnification.**

- A. *Indemnification.* Each party shall indemnify, defend, and hold harmless the other party, its governing body, officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines or penalties, damages, liability, interest, attorney's, consultant's, and account's fees or costs and expenses of whatsoever kind and nature, resulting from or arising out of the negligence or willful misconduct of the indemnifying party, its employees or agents in performing the duties set forth in this Agreement.
- B. *No Liability for Other Party's Debts and Obligations.* Neither party shall be liable for any debts, accounts, obligations, nor other liabilities whatsoever of the other, including and without limitation the other party's obligation to withhold employment and income taxes for itself or any of its employees.
- C. *Severability.* This Section 8 shall survive termination, cancellation, or revocation, whether whole or in part, of this Agreement for a period of one (1) year from the date of such termination, cancellation or revocation unless a timely claim is filed under A.R.S. § 12-821.01, in which case this Section 8 shall remain in effect for each claim and/or lawsuit filed thereafter, but in no event shall this Section 8 survive more than five (5) years from the date of termination, cancellation or revocation of this Agreement.

**9. Interpretation of Agreement.**

- A. *Entire Agreement.* This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superceded and merged herein.
- B. *Amendment.* This Agreement shall not be modified, amended, altered, or changed except by written agreement signed by both parties.
- C. *Construction and Interpretation.* All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the recitals contained herein.
- D. *Relationship of the Parties.* Neither party shall be deemed to be an employee or agent of the other party to this Agreement.
- E. *Days.* Days shall mean calendar days.
- F. *Severability.* In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach and agreement on a substitute provision.

- 10. **Waiver.** Waiver or delay in enforcement by either party of any breach of a term, covenant, or condition contained herein shall not be deemed a waiver of any other term, covenant, or condition, or any subsequent breach of the same or any other term, covenant, or condition contained herein.

11. **Notification.** Any notice, communication, or modification shall be given in writing and shall be given by registered or certified mail or in person to the following individuals. The date of receipt of such notices shall be the date the notice shall be deemed to have been given.

For the Fort McDowell Yavapai Nation:

Dr. Clinton M. Pattea, President  
Fort McDowell Yavapai Nation  
P.O. Box 17779  
Fountain Hills, AZ 85269

Thomas Moriarty, General Counsel  
Fort McDowell Yavapai Nation  
P.O. Box 17779  
Fountain Hills, AZ 85269

For the City of Avondale:

Marie Lopez Rogers, Mayor  
City of Avondale  
11465 W. Civic Center Drive  
Avondale, AZ 85323

Andrew McGuire, City Attorney  
GUST ROSENFELD, P.L.C.  
201 E. Washington, Suite 800  
Phoenix, AZ 85004-2327

12. **Assignment and Delegation.** Neither party shall assign nor delegate any of its rights, interest, obligations, covenants, or performance under this Agreement. Any termination shall not relieve either party from liabilities or costs already incurred under this Agreement.
13. **Non-Waiver of Sovereign Immunity.** Nothing in this Agreement, Exhibit A shall be construed to waive the Sovereign Immunity of the Nation.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, The City of Avondale has caused this Intergovernmental Agreement to be executed by the City upon resolution of the City Council and attested by the Clerk of the City, and the Fort McDowell Yavapai Nation has caused this Intergovernmental Agreement to be executed by the Nation's Tribal Council and attested to by its Clerk.

This Agreement is effective upon signature of a duly appointed representative of the Fort McDowell Yavapai Nation.

ATTEST:

FORT MCDOWELL YAVAPAI NATION

\_\_\_\_\_  
Pansy Thomas, Secretary  
Fort McDowell Yavapai Nation

\_\_\_\_\_  
Dr. Clinton M. Pattea  
President, Tribal Council  
Fort McDowell Yavapai Nation

\_\_\_\_\_  
Date

ATTEST:

CITY OF AVONDALE

\_\_\_\_\_  
Carmen Martinez, Clerk  
City of Avondale

\_\_\_\_\_  
Marie Lopez Rogers, Mayor  
City of Avondale

\_\_\_\_\_  
Date

The undersigned attorney acknowledges that he has reviewed the above Agreement on behalf of the FORT MCDOWELL YAVAPAI NATION, and has determined that this Agreement is in proper form and that execution hereof is within the powers and authority granted under the Constitution of the Fort McDowell Yavapai Nation, Section 13(A)(15), Article V Legislative Branch, as adopted October 19, 1999 and approved by the U.S. Deputy Commissioner of Indian Affairs November 12, 1999. This acknowledgement shall not constitute nor be construed as a waiver of the Sovereign Immunity of the Fort McDowell Yavapai Nation.

---

Thomas Moriarty, General Counsel      Date  
Fort McDowell Yavapai Nation

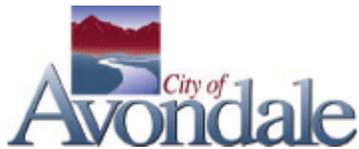
In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges that (i) he has reviewed the above Agreement on behalf of the CITY OF AVONDALE and (ii) as to the City of Avondale only, has determined that this Agreement is in proper form and that execution hereof is within the powers and authority granted under the laws of the State of Arizona.

---

Andrew J. McGuire, City Attorney      Date

**EXHIBIT A  
DESIGNATED PROJECTS**

<b>Project(s)</b>	<b>Purpose</b>	<b>Award</b>	<b>Contact</b>
City of Avondale Project Real	Public Benefit	\$10,000.00	Janeen Gaskins
<b>TOTAL</b>		<b>\$10,000.00</b>	



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2848-809 - Intergovernmental Agreement - Arizona Department of Transportation Data Access/Exchange

**MEETING DATE:**

August 10, 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 adopt a resolution authorizing an Intergovernmental Agreement (IGA) between the City of Avondale (City) and the Arizona Department of Transportation (ADOT) to execute the Data Access Agreement (Agreement) for transmission and retrieval of crash data, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

Previously, the City transmitted crash data to ADOT by facsimile on a regular basis. ADOT would then compile the data for each item entered in the City's Police Department crash report. This data would then be available in text format files for use by the City's Engineering Department for traffic safety and improvement analysis.

ADOT has recently changed the manner by which this data is compiled and transmitted. The new format through the ADOT Traffic Records System (TRS) is more automated and will benefit the City by providing a more efficient means for the Police Department to transmit crash forms and the Engineering Department to access the data for analysis. These changes require the City to sign the Data Access/Exchange Agreement with ADOT (attached).

**DISCUSSION:**

The ADOT Traffic Records System (TRS) became functional on January 1, 2009. On that date, the City was able to electronically submit crash data through the Electronic Incident Data Submission (EIDS) process to the new Accident Location Identification Surveillance System (ALISS) database. On January 5, 2009 the new TRS Query Tool was available to access, perform ad hoc queries and run various crash data reports on traffic data in the Arizona Information Data Warehouse (AIDW). As a result, crash data from the ALISS database is no longer provided by ADOT-MVD Traffic Records Section staff. In order for City staff to be able to access the TRS and electronically submit data or run reports, the City will need to enter into a Data Access/Exchange Agreement with ADOT. ADOT-MVD Traffic Records Section has been tasked with providing this access with the properly signed agreement.

This Data Access/Exchange Agreement will need to be signed by the authorizing authority (i.e.: Mayor/City Council or their designee). The agreement also identifies an agency contact person who will work with staff from ADOT-MVD Traffic Records to complete and submit the required paperwork prior to access codes being issued to users. Initially, this access is going to be limited to two (2) individuals from each agency.

The Engineering Department currently has data from August 2003 through December 31, 2008 in the old format. The City cannot obtain any additional data from ADOT until the Data Access/ Exchange Agreement is executed.

**BUDGETARY IMPACT:**

There is no budgetary impact associated with this agreement

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution authorizing an Intergovernmental Agreement (IGA) between the City of Avondale (City) and the Arizona Department of Transportation (ADOT) to execute the Data Access / Exchange Agreement for transmission and retrieval of crash data.

**ATTACHMENTS:**

Click to download

 [Resolution 2848-809](#)

**RESOLUTION NO. 2848-809**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO DEPARTMENT OF TRANSPORTATION DATABASE ACCESS AND INFORMATION EXCHANGE.

**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 Department of Transportation database access and information exchange (the "Agreement") is hereby approved substantially in the form attached hereto as Exhibit A.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

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

ATTEST:

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

APPROVED AS TO FORM:

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

EXHIBIT A  
TO  
RESOLUTION NO. 2848-809

[Intergovernmental Agreement]

See following pages.



# Arizona Department of Transportation

## Motor Vehicle Division

1801 West Jefferson Street Phoenix, Arizona 85007

Janice K. Brewer  
Governor

John S. Halikowski  
Director

Stacey K. Stanton  
Division Director

### DATA ACCESS / EXCHANGE AGREEMENT

Date: **Today's Date**

Name of Department: **Agency Name**

Doing Business As: **Doing Business as Name**

Business Address: **Business Location Address**

Mailing Address: **Mailing Address**

Telephone Number: **Telephone Number**

**<Agency Name>** (AGENCY) hereby requests authorization for connectivity to the Arizona Department of Transportation's (ADOT) (check all that apply):

- ALISS Database to submit electronic crash records.
- ALISS Database to access and retrieve crash data.
- Safety Data Mart to query, analyze and retrieve crash data.

**<Agency Name>** (AGENCY) is authorized to enter into this Agreement pursuant to **<(for agency to fill out)>**.

The AGENCY (as defined below) hereby requests authorization for connectivity to the ALISS Database and/or AIDW Safety Data Mart of the Arizona Department of Transportation, Motor Vehicle Division (MVD). The AGENCY's specific access capabilities are set forth and further described in the attached Addendum, which shall be considered a part of this Agreement between the AGENCY and ADOT.

The AGENCY understands and agrees that it shall only access the ALISS Database and/or the AIDW Safety Data Mart in accordance with the terms and conditions set forth herein. If at any time ADOT believes the AGENCY is using such access in an unauthorized or unlawful manner, ADOT reserves the right, in its sole discretion, to immediately terminate this Agreement.

This Database Access Agreement complies with GITA Statewide Standard P740-S741, Standard 4.7.3.

#### Definitions

“ADOT” means the Arizona Department of Transportation.

“ALISS” means the Accident Location, Identification and Surveillance System.

“Authorized individuals” means those persons who are employed or contracted by AGENCY to perform the activities authorized hereunder.

“Connectivity” means to make and/or maintain a computer connection with ADOT for the purpose of performing the activities authorized under this agreement.

“AGENCY” means <Agency Name>.

“Encrypt” means to scramble computerized information to secure data by using special algorithms for transmission or other purposes.

“Personal Information” means information that identifies an individual, including without limitation an individual's name, photograph, social security number, driver license number, physical description, race, ethnic origin, sexual orientation, income, blood type, DNA code, fingerprints, marital status, religion, home address, home telephone number, education, financial matters, and medical or employment history readily identifiable to a specific individual but does not include information on vehicular accidents, driving violations, and driver's status.

“RACF” means Resource Access Control Facility, which is a software security product that protects information by controlling access to it.

“Secure location” means an area designated specifically for authorized individuals to access ADOT’s database(s) and to which all unauthorized individuals shall be prohibited from entering.

“Sensitive Information” means any state information either in detail or aggregate that may be prejudicial or harmful to the state and its citizens.

### **Location of Activities**

AGENCY may conduct authorized activities only at those locations which have been pre-approved by ADOT such as their place of business that adheres to the other guidelines outlined in this Agreement. ADOT reserves the right, in its sole discretion, to disapprove of location.

### **Equipment**

AGENCY shall obtain computer equipment and software that is compatible with the information systems and connectivity requirements of ADOT, and which will allow access only to the specific database(s) listed in the Addendum to this Agreement.

### **Data Security**

AGENCY shall provide a secure location for all computer equipment used to access ADOT’s database(s).

AGENCY shall provide access to ADOT’s ALISS Database and/or Safety Data Mart only to AGENCY personnel or contractors who are authorized individuals, and to no one else. If at any time ADOT believes that an authorized individual is using such access inappropriately, ADOT reserves the right to immediately terminate that individual’s database access and/or to terminate AGENCY authorization under this Agreement.

AGENCY shall comply with all ADOT policies, procedures and directives regarding security and database access, including any future amendments thereto. All subcontractors utilized to perform the activities authorized by this Agreement must abide by the same security and access requirements as AGENCY.

AGENCY must disclose and obtain ADOT approval of any existing and/or contemplated strategic alliances, partnerships, Intergovernmental Agreements or subcontracting arrangements that AGENCY has or will enter into which involve the processing and/or use of ADOT data acquired pursuant to this Agreement.

AGENCY, its officers, agents, employees, contractors and representatives shall not, without the prior written approval of ADOT, disclose, distribute, or utilize in any manner not expressly authorized under this Agreement, any personal or sensitive information which is connected or otherwise associated with or accessed pursuant to this Agreement, either during the term of this Agreement or subsequent to any termination of this Agreement.

AGENCY shall maintain all hard copy information and electronic data related to this Agreement in a secure location at all times.

### **Data Privacy**

AGENCY shall not utilize its computer connections with ADOT for any purpose other than the purpose(s) specified in the Addendum to this Agreement.

### **Network Security**

AGENCY understands and agrees that any and all personal or sensitive information that it stores or transmits over external or public computer networks, such as the Internet, must be encrypted.

AGENCY computers that are permanently or intermittently connected to internal computer networks must have an ADOT approved, password-based, access control system in order to access ADOT's database(s). This requirement applies to computers with direct connections to data centers, as well as AGENCY "wide area network." Regardless of the network connections, all AGENCY computers which are used to access ADOT information must employ approved, password-based, access control systems.

All in-bound connections to AGENCY computers from external networks must also be protected. All access control systems must utilize user-identifications (i.e. RACF ID's) and passwords unique to each user, as well as user-privilege restriction mechanisms. Password sharing is prohibited.

### **Non-exclusivity**

This Agreement shall not preclude ADOT from entering into the same or similar Agreement with other public or private entities, including those performing identical or similar functions as AGENCY.

## **Notification**

AGENCY shall assign a contact person for problem resolution and notification of procedural changes. AGENCY shall advise ADOT within two business days of any change in its designated contact person. All notices or demands upon either party shall be in writing and an original shall be delivered in person, or sent by mail addressed as follows:

### **To ADOT at:**

Motor Vehicle Division  
Traffic Records Section  
ATTN: John Riemer  
206 S. 17<sup>th</sup> Ave, Mail Drop 064R  
Phoenix, AZ 85007-3233

### **To AGENCY at:**

**Agency Name**  
**Mailing Address**  
**City, ST ZIP**  
**Contact: Business Contact Name**  
**Fax: Business Contact's Fax Number**

## **Records**

The AGENCY shall maintain a log or register of all ADOT records it requests and all ADOT records it obtains by virtue of the access provided herein. The AGENCY shall retain this log or register either manually or electronically for a period of five years after the date of request and receipt of the records. All other books, papers, records, data, and accounting records relating to this Agreement (“Records”) shall be maintained by AGENCY for a period of five (5) years, or such greater or lesser time as may be required by federal or state law, rule, or the ADOT Records Retention Schedule. The Records shall be subject to inspection and audit by ADOT for five years after termination or completion of this Agreement. The Records shall be produced at the offices designated by ADOT.

It is further agreed that ownership of all records relating to this Agreement resides exclusively with ADOT, except for data retrieved pursuant to this Agreement.

## **Compliance**

AGENCY shall comply with all of the terms set forth in this Agreement, together with all applicable state statutes, rules, and regulations. AGENCY shall also comply with all relevant ADOT policies, procedures and directives that ADOT provides to AGENCY throughout the course of this Agreement. All AGENCY subcontractors are held to the same compliance standards, and any failure to comply on the part of the subcontractor will be deemed a failure on the part of AGENCY.

## **Non-compliance**

If AGENCY fails to comply with the terms of this Agreement, or with any applicable law, rule or regulation, ADOT reserves the right to take any remedial action that it deems necessary and appropriate, including without limitation the suspension, cancellation, revocation, or termination of this Agreement. In case of a violation of law, the Agreement shall immediately terminate.

## **Amendment and Modification of Agreement**

AGENCY shall review and approve in writing any modification of the Agreement. Upon the amendment of any applicable law, rule or regulation, the Agreement shall automatically be modified to reflect such amendment. Any modification of the Agreement shall be incorporated herein and shall be

subject to all other provisions of this Agreement. AGENCY may submit a written request to ADOT if there are any changes it desires be made to the Agreement, and such a request shall be approved or denied at ADOT's sole discretion.

### **Termination**

Either party may terminate this Agreement for convenience or cause upon thirty (30) days prior written notice to the other party. Upon any termination of this Agreement, AGENCY shall, at ADOT's request, remove and deliver to MVD all electronic data stored on any electronic storage devices and shall immediately return all other data and information received in connection herewith to ADOT.

This Agreement is subject to cancellation by the Governor pursuant to A.R.S. §38-511, or by ADOT for cause and without prior notice if the public interest so requires.

### **Waiver/Severability**

AGENCY agrees that a waiver of any provision of this Agreement shall not act as a waiver of any other provision of this Agreement. If a provision of this Agreement is for any reason declared invalid, illegal, or unenforceable, that declaration shall not affect the remainder of the provisions of the Agreement.

### **Duration**

This Agreement shall commence upon approval by the Assistant Division Director, Executive Services Group and execution by both parties, and shall thereafter continue in effect for a term of three (3) years, unless previously terminated or canceled as provided herein. Upon expiration of this three-year period, the parties may mutually agree to extend the term of the Agreement for another three (or fewer) years by entering into a "Joint Letter of Renewal."

### **Liability**

ADOT assumes no financial obligation or liability under this Agreement. The AGENCY assumes full responsibility for any liability which arises out of this Agreement. Any damages arising from carrying out or resulting from, in any respect, the terms of this Agreement or any modification thereof shall be the liability of the AGENCY and that to the extent permitted by law, the AGENCY hereby agrees to save and hold harmless and indemnify from loss the State of Arizona and ADOT, and any of their departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non performance of any provisions of this Agreement by the State of Arizona or ADOT, or any of their departments, agencies, officers and employees, or their independent contractors, the AGENCY, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State of Arizona or ADOT, any of their departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

### **Certification**

On behalf of AGENCY identified below, I hereby request approval of this Agreement. I certify that all of the information set forth herein by AGENCY is true and accurate, and that any records or information obtained from ADOT's database(s) and system(s) pursuant to this Agreement will be used solely for the purpose(s) specified in the Addendum to this Agreement, and for no other purposes. I further certify

that I have the authority to execute this Agreement on behalf of AGENCY. I understand that AGENCY must abide by the provisions of this Agreement if approved by the Assistant Division Director, Executive Services Group and executed by both parties.

### **Mandatory Provisions for Arizona State Agencies**

None of the provisions of the Agreement may be waived, changed or altered except in writing signed by both parties.

Notwithstanding any provision of the Agreement to the contrary, ADOT is not authorized to indemnify the AGENCY.

Every payment obligation of the ADOT under this Agreement is conditioned upon the availability of funds 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 or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to ADOT or any other agency of the State of Arizona in the event this provision is exercised, and neither ADOT nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

AGENCY shall comply with Executive Order 99-4, 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 American with Disabilities Act. AGENCY shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

Scrutinized Business Operations. Pursuant to A.R.S. 35-391.06 and 35-393.06, the AGENCY 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 A.R.S. 35-391 or/and 35-393, as applicable. If the State of Arizona or ADOT determines that the AGENCY submitted a false certification, ADOT may impose remedies as provided by law including cancellation or termination of this Agreement.

Compliance requirement for A.R.S. 41-4401 – immigration laws and E-Verify requirement.

- The AGENCY warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)
- A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the AGENCY may be subject to penalties up to and including termination of the Agreement.
- ADOT retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the AGENCY or subcontractor is complying with the warranty under paragraph 8(a).

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

This Agreement shall be construed in accordance to the laws of the State of Arizona.  
The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. 12-1518 except as may be required by other applicable statutes.

The parties may execute this Agreement in two or more counterparts, each of which shall be deemed an original and together which shall constitute one and the same document.

**Agency Name**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

For ADOT USE ONLY

Received this date \_\_\_\_\_. Signed \_\_\_\_\_

**AUTHORIZATION**

On behalf of the Arizona Department of Transportation, the authorization requested by **<Agency Name>** pursuant to this Agreement (including the attached Addendum) is hereby approved.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

Motor Vehicle Division/Executive Services Group

\_\_\_\_\_  
George Delgado  
Assistant Division Director, Motor Vehicle Division/Executive Services Group  
Arizona Department of Transportation

**AGREEMENT ADDENDUM**

THIS ADDENDUM is made and entered into pursuant to A.R.S. §§28-401 et seq. and with GITA Statewide Standard P740-S741, Standard 4.7.3, as part of the foregoing Data Access / Exchange Agreement between the Arizona Department of Transportation (ADOT) and the **<Agency Name>** (AGENCY).

Subject to ADOT’s right to terminate as set forth in this Agreement:

- I. ADOT <grants/does not grant> AGENCY authorization to access its ALISS Database via approved direct program-to-program interactions over an approved persistent connection and to thereby submit electronic crash records information contained in such databases according to the terms and conditions stated in this Agreement. Electronic crash records shall be submitted no more than once per day.
- II. ADOT <grants/does not grant> AGENCY authorization to access its ALISS Database via an approved secure gateway and with two-factor authentication to retrieve pertinent crash records data including vehicle information according to the terms and conditions stated in this agreement.
- III. ADOT <grants/does not grant> AGENCY authorization to access its Safety Data Mart via an approved secure gateway and with user identifications and passwords unique to each user to run queries and retrieve crash data strictly for the purposes of safety analysis and in accordance with the terms and conditions stated in this agreement. Data query and retrieval may be done on an as-needed basis.

The foregoing Agreement and Addendum are mutually agreed to:

Motor Vehicle Division/Executive Services Group

**Agency Name**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

George Delgado  
\_\_\_\_\_  
Name Printed

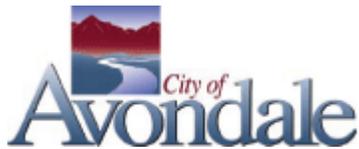
\_\_\_\_\_  
Name Printed

Assistant Division Director  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution - 2852-809 - Grant acceptance from GOHS for Police Department Click it or Ticket Program

**MEETING DATE:**

August 10, 2009

**TO:** Mayor and Council  
**FROM:** Janeen Gaskins  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a resolution authorizing the acceptance of a grant in the amount of \$12,000 for the Avondale Police Department's Click it or Ticket Program through the Governor's Office of Highway Safety Program.

**BACKGROUND:**

The summary of the 2004- 2008 Arizona Seat Belt Use Survey revealed that seat belts, when properly used, are 45 percent effective in preventing deaths in potentially fatal crashes and 50 percent effective in preventing serious injuries. The Governor's Office of Highway Safety is dedicated to enforcing seat belt usage and has therefore implemented the Click it or Ticket grant program.

**DISCUSSION:**

The Avondale Police Department will participate in three, one week long enforcement waves. This enforcement campaign will occur immediately following one week of public information and education activities. Avondale's police officers will maintain a high profile when enforcing vehicle occupant protection laws during all traffic stops. They will make their efforts visible by using signage and message sign light bars to announce enforcement activities. They will also invite the media to events and request assistance in spreading the word about the initiative.

**BUDGETARY IMPACT:**

The City of Avondale Police Department is requesting permission to accept grant funds for \$12,000 to participate in the Click it or Ticket Program. There are no match requirements for this grant. The Police Department has received internal approval for submitting this grant from the Risk Management Division, Finance Department and Police Chief Kotsur.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution authorizing the acceptance of a grant in the amount of \$12,000, for the Avondale Police Department's Click it or Ticket Program through the Governor's Office of Highway Safety Program.

**ATTACHMENTS:**

Click to download

 [Resolution 2852-809](#)

**RESOLUTION NO. 2852-809**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACCEPTANCE OF GRANT FROM THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR SEAT BELT SAFETY PROGRAM FUNDING.

**WHEREAS**, the Governor's Office of Highway Safety has awarded the City of Avondale (the "City") a grant in the amount of \$12,000.00 for project funding relating to the City's seat belt safety "Click it or Ticket" Program (the "Grant"); and

**WHEREAS**, the Council of the City of Avondale desires to accept the Grant funds.

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

SECTION 1. That the Highway Safety Contract with the Governor's Office of Highway Safety relating to the Grant (the "Agreement") is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit the Agreement and any other necessary or desirable instruments in connection with the Grant and to take all steps necessary to carry out the purpose and intent of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 2852-809

[Highway Safety Contract]

See following pages.

HIGHWAY SAFETY CONTRACT

This page, the Project Director's Manual, and the Schedules A, B, and C, attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless deviation is authorized in writing by the Governor's Highway Safety Representative.

**PART I.** **CFDA #20.614**

<b>1. APPLICANT AGENCY</b> Avondale Police Department	<b>GOHS CONTRACT NUMBER</b> 2009-NG-002
<b>ADDRESS</b> 11465 W. Civic Center Drive, Avondale, AZ 85323	<b>PROGRAM AREA 406-CIOT TASK 2</b>
<b>2. GOVERNMENTAL UNIT</b> City of Avondale	<b>2A. STATUTORY AUTHORITY</b> ARS §9-281; §9-499.01
<b>ADDRESS</b> 11465 W. Civic Center Drive, Avondale, AZ 85323	<b>3. PROJECT TITLE</b> CIOT – Next Generation – Maricopa County
<b>4. GUIDELINES</b> 406 – CIOT Next Generation Demonstration Grant	

**5. BRIEFLY STATE PURPOSE OF PROJECT:**  
The purpose of this effort is to implement a demonstration project in Maricopa and Pima Counties to test the effects of conducting multiple, interim Click It or Ticket Next Generation mobilization periods. The goal is to sustain and increase the seat belt usage rates in Maricopa and Pima Counties. The overtime identified in this contract is to be used for enforcement conducted in Maricopa County only.

<b>6. BUDGET</b>	<b>Project Period FY2009/2010</b>
<b>COST CATEGORY</b>	
<b>I. Personnel Services</b>	\$8,400.00
<b>II. Employee Related Expenses</b>	\$3,600.00
<b>III. Professional and Outside Services</b>	.00
<b>IV. Travel In-State</b>	.00
<b>V. Travel Out-of-State</b>	.00
<b>VI. Materials and Supplies</b>	.00
<b>VII. Other Expenses</b>	.00
<b>VIII. Capital Outlay</b>	.00
<b>TOTAL ESTIMATED COSTS</b>	<b>\$12,000.00</b>

**PLANNED PROJECT PERIOD** FROM: 07-01-09 TO: 10-02-10

**CURRENT GRANT PERIOD** FROM: *Authorization to Proceed Date* TO: 10-02-10

**TOTAL FEDERAL FUNDS OBLIGATED THIS FY:** \$12,000.00

A political subdivision or State agency governed by a board or commission must provide a certified resolution or ordinance authorizing entry into this contract.

<b>SCHEDULE A</b>
<b>Avondale Police Department      SCOPE OF WORK      Contract Number 2009-NG-002</b>

**PROBLEM:**

The summary of the 2004 through 2008 Arizona Seat Belt Use Survey results are presented in the following table:

GROUPS OBSERVED	2004	2005*	2006**	2007	2008
All Drivers Seat Belt Use	95.12%	94.42%	79.4%	82.5%	81.4%
Front Seat Occupants Seat Belt Use	95.28%	94.22%	76.4%	80.9%	79.9%
Children Safety Restraint Use	97.57%	96.66%	88.4%	86.2%	80.1%
Motorcycles Helmet Use	35.93%	57.52%	59.0%	74.6%	67.3%
Cell Phone Use***	-	-	-	14.6%	8.1%

\*Post "Click It or Ticket" Survey - Source: CSI Santa Rita Research Center

\*\*Post "Click It or Ticket" Survey - Source: Behavioral Research Center

\*\*\* 2007 Survey is the first one that included cell phone use.

Seat belts, when properly used, are 45 percent effective in preventing deaths in potentially fatal crashes and 50 percent effective in preventing serious injuries. No other safety device has as much potential for immediately preventing deaths and injuries in motor vehicle crashes.

There are several barriers that must be overcome to make this occupant protection enforcement program successful:

1. Arizona presently has a secondary seat belt use law.
2. Arizona needs to continue to develop and expand a highly visible Occupant Protection Enforcement Program.
3. Funding directed towards occupant protection is just beginning to significantly impact the enforcement level of occupant protection laws.
4. There is a deficiency of language- and cultural-specific public information and education materials targeting the Spanish speaking population.
5. Key community leaders are generally unaware of the life saving benefit of occupant protection enforcement and restraint use.

**OBJECTIVE:**

The purpose of this effort is to implement a demonstration project in Maricopa and Pima Counties to test the effects of conducting multiple, interim *Click It or Ticket Next Generation*

<b>SCHEDULE A</b>
<b>Avondale Police Department      SCOPE OF WORK      Contract Number 2009-NG-002</b>

mobilization periods. The goal is to sustain and increase the seat belt usage rates in Maricopa and Pima Counties.

**METHOD OF PROCEDURE:**

1. The Avondale Police Department, in Maricopa County, will participate in three (3), one (1) week long enforcement waves. When conducting the enforcement waves, agencies are encouraged to conduct these sporadically throughout the enforcement week and schedule when traffic violations are most prolific. For example:

Day of Week	Overtime Schedule
Saturday	1800 to 2200
Sunday	No enforcement
Monday	0600 to 0900 and 1500 to 1800
Tuesday	0600 to 0900 and 1500 to 1800
Wednesday	0600 to 0900 and 1500 to 1800
Thursday	0600 to 0900 and 1500 to 1800
Friday	0600 to 0900 and 1500 to 1800

The enforcement campaign will occur immediately following one (1) week of public information and education activities. The schedule is listed in the table below.

2. When Conducting Enforcement Waves:

- Maintain a high profile when enforcing vehicle occupant protection laws during all traffic stops.
- Make your efforts visible.
- Use signs or message sign light bars to announce enforcement.
- Invite the media.

**MEDIA AND ENFORCEMENT WAVE SCHEDULE**

Media Dates	Enforcement Dates
09-19-09 to 09-25-09	09-26-09 to 10-02-09
02-20-10 to 02-26-10	02-27-10 to 03-05-10
09-18-10 to 09-24-10	09-25-10 to 10-01-10

3. The National Highway Traffic Safety Administration (NHTSA) will hire a contractor to conduct pre-wave and post-wave usage observation surveys to determine seat belt usage. **Do not** utilize funds from this contract to support overtime activities dedicated to conducting surveys.

➤ **Communicate the Program's Goals with Local Media**

Contact your local media and advise them of the upcoming enforcement period. Invite the media on ride-alongs or to visit a checkpoint during the enforcement waves. Use a combination of educational materials, press releases, and/or news articles to stress enforcement of the occupant protection laws. The goal is to alert the public that an enforcement blitz will be taking place.

➤ **Complete Wave Summary Report**

The Wave Summary Report is completed to document the activities generated in your community during the wave period. The Report will include the following information:

- ⇒ The number of citations issued for seat belt violations, child safety seat violations, moving violations and non-moving violations.
- ⇒ The number and description of press releases, press events and media stories generated by the Avondale Police Department at the community level.
- ⇒ The number and description of activities involving networking and coalition building related to seat belts and child safety seats by the Avondale Police Department at the community level.

Without this important data, the efforts of your department cannot be recognized or measured and will result in the Avondale Police Department not being reimbursed for the overtime worked.

It is also agreed and understood that performance standards for law enforcement personnel is to make a sufficient number of self-initiated contacts per overtime shift to justify the overtime. This enforcement activity is intended to apprehend errant drivers. It is expected that a citation(s) or documented traffic stops will be completed. It is understood that violator contacts will result in related, time-consuming activity. This includes traffic-related arrests. Such activity qualifies for reimbursement. Activity other than that initiated through emphasis patrol contact (investigating crashes, emergency responses, etc.) will be the responsibility of the contracting Avondale Police Department and may not be considered for reimbursement.

*Sworn personnel are expected to issue citations for seat belt and child safety seat violations during these enforcement programs.*

It is imperative that the officers participating in this program and who are receiving overtime pay funded through a contract from GOHS, document **all** enforcement activity. The GOHS Project Coordinator assigned to this contract will conduct audits to ensure that the level of enforcement is equal to the level of overtime worked. Each RCI that is submitted will include copies of recaps/worksheets for each individual who works the overtime. The recaps/worksheets will include the officer's/deputy's name and all activity for the overtime time period. This will include, but not be limited to documenting each traffic stop, arrest, citation, impound, warrant, etc.

**PRESS RELEASE**

Agencies are required to develop and distribute a press release announcing this grant award. A copy of this press release will be sent via email to the GOHS Director ([agutier@azgohs.gov](mailto:agutier@azgohs.gov)) and GOHS Project Coordinator ([clerma@azgohs.gov](mailto:clerma@azgohs.gov)) at the same time it is sent to the media. This press release will include the objective and specify that the funding is from the Governor's Office of Highway Safety.

**PURSUIT POLICY**

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect.

**PROJECT/CONTRACT EXTENSION**

Contracts will be *effective through 02 October 2010*. This is a demonstration grant which **is not** subject to extensions.

**LIMITED ENGLISH PROFICIENCY (LEP) EXECUTIVE ORDER 13166**

The certifying applicant will take reasonable steps to ensure meaningful access by persons with limited English proficiency to the information and services provided through federal financial assistance. Additional information on the "Improving Access to Services for Persons with Limited English Proficiency" is available at [www.lep.gov](http://www.lep.gov).

**PROJECT EVALUATION:**

This project will have an impact evaluation to ensure that the objectives have been met; therefore it is necessary that all reporting requirements be met. The Wave Summary Report requirement is part of the "Method of Procedure" in this Contract.

**It is imperative that the Wave Summary Report be FAXED to the Governor's Office of Highway Safety [(602) 255-1265] ON TIME according to the schedule below.**

**REPORT SCHEDULE**

Enforcement Period	Due Date
09-26-09 to 10-02-09	10-16-09
02-27-10 to 03-05-10	03-19-10
09-25-10 to 10-01-10	10-15-10

Following the faxing of the Wave Summary Report, the hard copy will be mailed to GOHS. News articles and any unique stories or survival incidents experienced by your officers should be included in the mailing.

At select times during the project period, specific information may be requested by State and Federal officials. The information requested may include, but not be limited to:

- Status of fiscal expenditures
- Specific problem areas encountered and solutions identified (if applicable)
- Public information and education activities
- Electronic and printed media activities (include newspaper clippings)
- Presentations: local schools, clubs, fairs, etc.
- Multi agency task force activities

The Project Director will submit a Final Statement of Accomplishment at completion of the contract to include all financial, performance, and other reports as required by 1 November 2010.

**Note:** Failure to comply with the reporting requirements may result in withholding of federal funds or termination of the contract.

**PROFESSIONAL AND TECHNICAL PERSONNEL:**

Kevin Kotsur, Chief of Police, Avondale Police Department, will serve as Project Director.

Geoffrey Heard, Sergeant, Avondale Police Department, will serve as Project Administrator.

Officer Cecilia Lerma, Arizona Occupant Protection Coordinator, Governor's Office of Highway Safety, will serve as Project Coordinator.

**REPORT OF COSTS INCURRED (RCI):**

The Project Director will submit a Report of Costs Incurred (RCI) form, with supporting payroll documentation attached within thirty (30) days of each enforcement period to the Governor's Office of Highway Safety.

Failure to meet this requirement may be cause to terminate the project under Schedule C, II B.

The 10 percent retention, Schedule C, IIA, is waived.

**PROJECT MONITORING:**

Representatives of the Governor's Office of Highway Safety may monitor the project either on-site or by telephone during the life of the contract.

**FORMS ATTACHED:**

Enforcement Report forms. These forms are available in Microsoft Word format. If you would like them emailed, please make a request to [clerma@azgohs.gov](mailto:clerma@azgohs.gov).

**ESTIMATED COSTS:**

I.	Personnel Services		\$8,400.00
	Occupant Protection Enforcement Waves		
	09-26-09 to 10-02-09	2,800.00	
	02-27-10 to 03-05-10	2,800.00	
	09-25-10 to 10-01-10	2,800.00	
II.	Employee Related Expenses		3,600.00
	09-26-09 to 10-02-09	1,200.00	
	02-27-10 to 03-05-10	1,200.00	
	09-25-10 to 10-01-10	1,200.00	
III.	Professional and Outside Services		.00
IV.	Travel In-State		.00
V.	Travel Out-of-State		.00
VI.	Materials and Supplies		.00
VII.	Other Expenses		.00
VIII.	Capital Outlay		<u>.00</u>
<b>TOTAL ESTIMATED COSTS</b>			<b>\$12,000.00*</b>

\*This is the maximum amount to be reimbursed. It is agreed and understood that the Avondale Police Department will absorb expenditures in excess of \$12,000.00.

**ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY  
 ENFORCEMENT WAVE REPORT  
Avondale Police Department  
 Daily Citation Activity During Event Week:  
 CIOT Next Generation 9-26-09 to 10-02-09**

<b>Day 1</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 2</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 3</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 4</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 5</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 6</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 7</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____

**ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY  
 ENFORCEMENT WAVE REPORT  
Avondale Police Department  
 Daily Citation Activity During Event Week:  
 CIOT Next Generation 02-27-10 to 03-05-10**

<b>Day 1</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____
<b>Day 2</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____
<b>Day 3</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____
<b>Day 4</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____
<b>Day 5</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____
<b>Day 6</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____
<b>Day 7</b>	CPS (ARS §28-907)_____ SB (ARS §28-909,A1,A2)_____ Moving Citations_____ Other_____

**ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY  
 ENFORCEMENT WAVE REPORT  
Avondale Police Department  
 Daily Citation Activity During Event Week:  
 CIOT Next Generation 09-25-10 to 10-01-10**

<b>Day 1</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 2</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 3</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 4</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 5</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 6</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____
<b>Day 7</b>	CPS (ARS §28-907) _____ SB (ARS §28-909,A1,A2) _____ Moving Citations _____ Other _____

**ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY  
ENFORCEMENT WAVE REPORT**

**Summary - CIOT Next Generation – Maricopa County  
09-26-09 to 10-02-09**

**Agency:** \_\_\_\_\_

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

**Officer:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**1. Citation Activity During Event Week**

CPS (ARS §28-907) \_\_\_\_\_

SB (ARS §28-909,A1,A2) \_\_\_\_\_

DUI Arrests	Safety Belt Citations	Child Safety Citations	Felony Arrests	Recovered Stolen Vehicles	Fugitives Apprehended

Suspended Licenses	Uninsured Motorists	Speeding	Reckless Driving	Drug Arrests	Other (specify)

**2. Press & Media Events, Interviews, & Other Public Information Activity**

(List each activity briefly and attach print material if available.)

Date

Activity

**3. Networking and Coalition Building Activity**

(List each activity briefly and attach print material if available.)

Date

Activity

**ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY  
ENFORCEMENT WAVE REPORT**

**Summary - CIOT Next Generation – Maricopa County  
02-27-10 to 03-05-10**

**Agency:** \_\_\_\_\_

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

**Officer:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**1. Citation Activity During Event Week**

CPS (ARS §28-907) \_\_\_\_\_

SB (ARS §28-909,A1,A2) \_\_\_\_\_

DUI Arrests	Safety Belt Citations	Child Safety Citations	Felony Arrests	Recovered Stolen Vehicles	Fugitives Apprehended

Suspended Licenses	Uninsured Motorists	Speeding	Reckless Driving	Drug Arrests	Other (specify)

**2. Press & Media Events, Interviews, & Other Public Information Activity**  
(List each activity briefly and attach print material if available.)

Date

Activity

**3. Networking and Coalition Building Activity**  
(List each activity briefly and attach print material if available.)

Date

Activity

**ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY  
ENFORCEMENT WAVE REPORT**

**Summary - CIOT Next Generation – Maricopa County**  
**09-25-10 to 10-01-10**

Agency: \_\_\_\_\_

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

Officer: \_\_\_\_\_

Phone: \_\_\_\_\_

**1. Citation Activity During Event Week**

CPS (ARS §28-907) \_\_\_\_\_

SB (ARS §28-909,A1,A2) \_\_\_\_\_

DUI Arrests	Safety Belt Citations	Child Safety Citations	Felony Arrests	Recovered Stolen Vehicles	Fugitives Apprehended

Suspended Licenses	Uninsured Motorists	Speeding	Reckless Driving	Drug Arrests	Other (specify)

**2. Press & Media Events, Interviews, & Other Public Information Activity**

(List each activity briefly and attach print material if available.)

Date

Activity

**3. Networking and Coalition Building Activity**

(List each activity briefly and attach print material if available.)

Date

Activity

HIGHWAY SAFETY CONTRACT

SCHEDULE C

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HIGHWAY SAFETY CONTRACT

SCHEDULE C

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**SCHEDULE C**

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

**I. Project Monitoring, Reports, and Inspections**

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

**II. Reimbursement of Eligible Expenses**

- A. Ten percent (10%) of the claim amount can be maintained by STATE until satisfactory conclusion of the Contract.

- B. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XIX herein, "Termination and Abandonment".
- C. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- D. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

### **III. Property Agreement**

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

### **IV. Travel**

#### In-State and Out-of-State Travel

In-state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 and any checklist attached to Schedule B will apply.

All out-of-state travel must be approved in writing in advance by STATE.

### **V. Standard of Performance**

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

**VI. Hold Harmless Agreement**

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

**VII. Non-Assignment and Sub-Contracts**

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

**VIII. Work Products and Title to Commodities and Equipment**

A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.

B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

**IX. Copyrights and Patents**

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

**X. "Common Rule" and OMB Circular No. A-102 (Revised)**

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

## **XI. Equal Opportunity**

A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.

1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.

C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

## **XII. Executive Order 99-4**

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 99-4, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 99-4 is located in Part II of the Project Director's Manual.

**XIII. Application of Hatch Act**

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

**XIV. Minority Business Enterprises (MBE) Policy and Obligation**

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

**XV. Arbitration Clause, ARS §12-1518**

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

**XVI. Inspection and Audit, ARS §35-214**

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

**XVII. Appropriation of Funds by U.S. Congress**

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

**XVIII. Continuation of Highway Safety Program**

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

**XIX. Termination and Abandonment**

- A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.
- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

**XX. Cancellation Statute**

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

**REIMBURSEMENT INSTRUCTIONS**

1. ***Agency Official authorized by Project Director to certify and sign Reports of Costs Incurred (RCIs):***

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

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

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

2. ***Agency's Fiscal Contact:***

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

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

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

3. ***REIMBURSEMENT INFORMATION:***

Warrant/Check to be made payable to:

\_\_\_\_\_

Warrant/Check to be mailed to:

\_\_\_\_\_  
(Agency)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

## AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE

### **Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in Schedules A, B, and C and the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

### **Certificate of Compliance**

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

### **Certification of Non-Duplication of Grant Funds Expenditure**

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

### **Single Audit Act**

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

### **Lobbying Restrictions**

#### **Certification for Contracts, Grants, Loans, and Cooperative Agreements**

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

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

- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

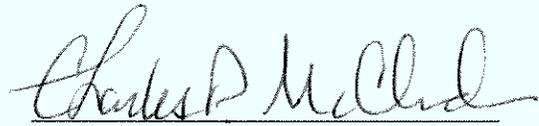
**Signature of Project Director:**

Chief Kevin Kotsur  
Avondale Police Department

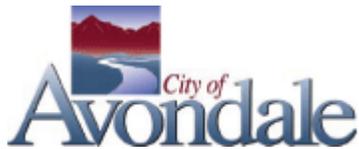
  
 \_\_\_\_\_  
 8/3/09      623 333 7283  
 Date                      Telephone

**Signature of Authorized Official of Governmental Unit:**

Charlie McClendon, Manager  
City of Avondale

  
 \_\_\_\_\_  
 8-3-09      623-333-1015  
 Date                      Telephone





# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2850-809 – IGA regarding E-Verify Audits

**MEETING DATE:**

August 10, 2009

**TO:** Mayor and Council  
**FROM:** Andrew McGuire, City Attorney (602) 257-7664  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a resolution authorizing the City to enter into an Intergovernmental Agreement (IGA) for Sharing the Results of the E-verify Audits with the other governmental agencies. The League of Cities and Towns will create a shared searchable database to provide a depository for the results of the E-verify audits.

**BACKGROUND:**

Under Ariz. Rev. Stat. § 41-4401(B), government agencies must establish procedures to conduct random verification of the employment records of government entity contractors and subcontractors. The purpose of this IGA is to (1) prevent wasting taxpayer dollars by conducting duplicative audits by multiple government agencies and (2) reduce the burden on the contractors and subcontractors who are required to comply with these audits. In the worst case scenario, a contractor or subcontractor could be audited by 80 different government agencies in a calendar year.

This IGA creates a shared searchable database to provide a depository for the results of each government agencies' E-verify audits. The League of Cities and Towns has agreed to maintain the results of each E-verify audit for a period of five years from the date of the audit. Each government agency that agrees to the terms of this IGA will be able added to the list of Participating Agencies who will be able to access the League's shared database. The IGA leaves it to the discretion of each Partnering Agency to determine whether to (1) contact the City or Town that performed the E-verify audit to review the source materials audited or (2) reaudit the contractor or subcontractor.

**BUDGETARY IMPACT:**

The League of Cities and Towns considers the database to be a no cost service for its members. Each Participating Agency will pay for its own costs to establish an audit process and perform the audits.

**RECOMMENDATION:**

Recommend adoption of the resolution approving the Intergovernmental Agreement.

**ATTACHMENTS:**

Click to download

[Resolution 2850-809](#)

**RESOLUTION NO. 2850-809**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT RELATING TO THE CITY'S PARTICIPATION IN AN E-VERIFY AUDIT SHARING DATABASE.

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

SECTION 1. That the intergovernmental agreement relating to the City of Avondale's participation in an E-verify audit sharing database (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, August 10, 2009.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 2850-809

[Intergovernmental Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
FOR SHARING THE RESULTS OF THE E-VERIFY AUDITS**

THIS INTERGOVERNMENTAL AGREEMENT (this “Agreement”) is entered into by and between the Arizona municipal corporations listed on Exhibit A, attached hereto and incorporated herein by reference (each referred to individually as a “Initial Participating Agency” and collectively identified as the “Initial Participating Agencies”), to create a searchable database for sharing information obtained from the E-verify Audits (as defined in Recital B below). The effective date of this Agreement shall be, with respect to each party hereto, the date of such party’s signature below.

RECITALS

A. The Initial Participating Agencies have authority to enter into the Agreement pursuant to ARIZ. REV. STAT. § 11-952.

B. Pursuant to ARIZ. REV. STAT. § 41-4401(B), government entities must establish procedures to conduct random verification of the employment records of government entity contractors and subcontractors to ensure their compliance with (i) all federal immigration laws and regulations that relate to their employees and (ii) employee employment eligibility verification through the E-verify program under ARIZ. REV. STAT. § 23-214(A) (the “E-verify Audits”).

C. The Initial Participating Agencies desire to share the information obtained from the E-verify Audits with the other Initial Participating Agencies to (i) prevent wasting taxpayer dollars by eliminating duplicative E-verify Audits amongst the Initial Participating Agencies and (ii) reduce the burden on the contractors and subcontractors complying with the Initial Participating Agencies’ E-verify Audits.

D. The Initial Participating Agencies desire to allow other Arizona municipal corporations (each, an “Additional Participating Agency”) to become parties to this Agreement upon adoption hereof, unchanged, by each such Additional Participating Agency. The list of Additional Participating Agencies shall be attached hereto as Exhibit B and shall be updated and substituted herein upon the approval of the Council of each new Additional Participating Agency. The Initial Participating Agencies and the Additional Participating Agencies are individually referred to herein as a “Participating Agency” or collectively as “Participating Agencies.”

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 Participating Agencies agree as follows:

1. Term. The initial term of the Agreement shall begin upon the date of the first Initial Participating Agency's signature hereon and shall continue in full force and effect until June 30, 2012. Thereafter this Agreement will automatically renew for successive terms of three years. This Agreement will remain in full force and effect with respect to all Participating Agencies during any such renewal term, except for any Participating Agency that has terminated its participation in this Agreement pursuant to Section 10 below.

2. Participating Agency Warranty. Each Participating Agency agrees and understands that its participation in this Agreement is conditioned upon its compliance with ARIZ. REV. STAT. § 41-4401, as described Section 19 below, at all times during the term of this Agreement. By executing this Agreement, each Participating Agency warrants to the others that it (a) has established an audit procedure in compliance with ARIZ. REV. STAT. § 41-4401 and (b) will perform E-verify Audits on entities from which it seeks to procure services (the "Vendor") on a periodic basis.

3. Procedure.

a. Shared Searchable Database. Each Participating Agency shall maintain all copies of the documents and records that are audited in accordance with its E-verify Audit. Each Participating Agency shall submit a summary memorandum of its results of each E-verify Audit to the Executive Director of the League of Arizona Cities and Towns (the "League"). The League will maintain a shared searchable database for all of the Participating Agencies to be able to access and view the summary memoranda of the results of the other Participating Agencies' E-verify Audits (the "Shared Database"). The League will retain the E-verify Audit information in the Shared Database for five years from the date of the E-verify Audit. The information transmitted to the League shall include, at a minimum:

- (1) Name of the Vendor.
- (2) Contact name.
- (3) Date of E-verify Audit.
- (4) Outcome of E-verify Audit.
- (5) Types of Records audited (i.e. I-9, visas).
- (6) Specific contract termination information, if any.

b. Audit Retention Period. Although the League will retain the E-verify Audit information in the Shared Database for five years, each Participating Agency shall independently determine the length of time for which an E-verify Audit will be valid.

c. Costs and Expenses. Each Participating Agency will pay for its own costs and expenses related to establishing an audit process and of performing its E-verify Audits. Each Participating Agency shall be solely responsible for budgeting funds in its annual budget and subsequently appropriating such funds as are necessary to ensure that E-verify Audits are completed and submitted to the League as set forth herein.

d. Additional Audits Permitted. Nothing contained herein shall be construed to prohibit any Participating Agency from conducting its own E-verify Audit for any or all of the Vendors listed in the Shared Database.

4. Applicable Law; Venue. In the performance of the Agreement, all Participating Agencies to the Agreement shall abide by and conform to any and all laws of the United States and State of Arizona 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 the Agreement may be brought only in courts in the State of Arizona.

5. Indemnification. Each Participating Agency and the League (each as an “Indemnitor”) agrees, to the extent permitted by law, to indemnify, defend and hold harmless the other Participating Agencies and the League (each as an “Indemnitee”) for, from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney’s fees) (hereinafter collectively referred to as “Claims”) arising from any negligent act or intentional misconduct by any officers, officials, agents, employees or volunteers in connection with work or responsibilities performed pursuant to this Agreement, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.

6. Insurance.

a. General Insurance Requirements. The Participating Agencies mutually agree to provide for their respective financial responsibilities relating to liability arising out of this Agreement through either the purchase of insurance or the provision of the self-funded insurance program.

b. Workers’ Compensation. All Participating Agencies to the Agreement agree that they are not joint employers for the purpose of workers compensation coverage. To the extent that employees of one Participating Agency performs duties on behalf of another Participating Agency with respect to an E-verify Audit, such employee shall be deemed to be an “employee” of both public agencies while performing such duty pursuant to this Agreement solely for purposes of ARIZ. REV. STAT. § 23-1022 and the Arizona Workers’ Compensation laws. The primary employer shall be solely liable for any workers’ compensation benefits which may accrue. Each Participating Agency shall post a notice pursuant to the provisions of ARIZ. REV. STAT. § 23-1022 in substantially the following form:

All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of the State of Arizona to be employees of both public agencies for the purposes of workers’ compensation.

All Participating Agencies agree and understand that no League employee shall be considered an employee of a Participating Agency while carrying out the duties set forth in this Agreement.

7. Amendment. The Agreement may be modified only by a written amendment signed by all of the Participating Agencies; provided, however, that this Agreement may be amended unilaterally for the sole purpose of allowing an Additional Participating Agency to join in this Agreement. After approval of this Agreement in its entirety, and prior to accessing the Shared Database, each new Additional Participating Agency shall submit a fully executed signature page, in the form attached hereto, to the League for distribution to all Participating Agencies. The League will also distribute an updated Exhibit B (Additional Participating Agencies List) to all Participating Agencies.

8. Relationship of the Participating Agencies; Authority. Each Participating Agency to the Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venturer, associate, or any other representative capacity of the others. Each Participating Agency shall be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this Agreement. This Agreement shall not be construed to imply authority to perform any tasks, or accept any responsibility, not expressly set forth herein. This Agreement shall be strictly construed against the creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein.

9. Integration. The Agreement represents the entire agreement of the Participating Agencies with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof and revoked and superseded by this Agreement. No representations, warranties, inducements, or oral agreements have been made by any of the Participating Agencies except as expressly set forth herein.

10. Termination of Agreement. A Participating Agency may terminate its participation in this Agreement by providing not less than 30 days written notice of the intent to terminate the Agreement to the League, which shall distribute such notice to all Participating Agencies. All information submitted to the Shared Database prior to such termination shall remain accessible to the Participating Agencies and the League. The League will also distribute an updated Exhibit B (Additional Participating Agencies List) to all Participating Agencies. Following termination of participation by one or more Participating Agencies, this Agreement will remain in full effect with respect to the remaining Participating Agencies.

11. Severability. If any provision of the Agreement is declared void or unenforceable by a court of competent jurisdiction, such provision shall be deemed severed from the Agreement, which shall otherwise remain in full force and effect.

12. No Assignment. None of the Participating Agencies may assign or delegate any of its rights or obligations hereunder.

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

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

15. Captions. Captions and section headings used herein are for convenience only and are not a part of the Agreement and shall not be deemed to limit or alter any provisions hereof and shall no be deemed relevant to construing the Agreement.

16. 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 each Participating Agency at the address set forth on Exhibit A or Exhibit B, as applicable, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth on Exhibit A or Exhibit B, as applicable, (c) given to a recognized and reputable overnight delivery service, to the address set forth on Exhibit A or Exhibit B, as applicable or (d) delivered by facsimile transmission to the number set forth on Exhibit A or Exhibit B, as applicable:

If to an Initial Participating Agency:            See Exhibit A

If to an Additional Participating Agency:    See Exhibit B

If to the League:            League of Arizona Cities and Towns  
1820 West Washington Street  
Phoenix, Arizona 85007  
Facsimile: (602) 253-3874  
Attn: Ken Strobeck, Executive Director  
Dale Wiebusch, Legislative Associate

or at such other address, and to the attention of such other person or officer, as any Participating Agency may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (a) when delivered to the Participating Agency, (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 Participating Agency's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Participating Agency shall mean and refer to the date on which the Participating Agency, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

17. Cancellation. The Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. A Participating Agency may cancel the Agreement without penalty or further obligations by that Participating Agency or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of that Participating Agency 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 Participating Agency to the Agreement in any capacity or a consultant to any other Participating Agency of the Agreement with respect to the subject matter of the Agreement.

18. Continuation Subject to Appropriation. The performance by each Participating Agency to this Agreement of its respective obligations under the Agreement is subject to actual availability of funds appropriated by each Participating Agency for such purposes. Each Participating Agency to the Agreement shall be the sole judge and authority in determining the availability of funds under the Agreement and each Participating Agency shall keep the other Participating Agencies fully informed as to the availability of funds for its obligations. The obligation of each Participating Agency to fund any obligation pursuant to the Agreement is a current expense of such Participating Agency, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Participating Agency. If the Council of a Participating Agency fails to appropriate money sufficient to meet its obligations as set forth in the Agreement during any immediately succeeding fiscal year, the Agreement shall terminate with respect to that Participating Agency at the end of the then-current fiscal year and such Participating Agency shall thereafter be relieved of any subsequent obligation under the Agreement. The Agreement will remain in full effect for the remaining Participating Agencies to the Agreement.

19. E-verify, Records and Audits. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Participating Agencies and their respective 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). A Participating Agency's or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by a non-breaching Participating Agency under the terms of this Agreement. Each Participating Agency retains the legal right to inspect the papers of the other Participating Agencies to ensure that the other Participating Agencies and their respective subcontractors are complying with the above-mentioned warranty.

20. Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, each Participating Agency 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 it is determined by a court of competent jurisdiction that a Participating Agency submitted a false certification, that Participating Agency's participation in this Agreement shall terminate without any further action by any other Participating Agency. This Agreement will remain in full force and effect with respect to the remaining Participating Agencies.

IN WITNESS WHEREOF, the Participating Agencies have executed this Agreement on the dates of their respective signatures written below.

[SIGNATURES ON THE FOLLOWING PAGES]

**“Participating Agencies”**

CITY OF AVONDALE, an Arizona  
municipal corporation

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

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

ATTEST:

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

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned Attorney acknowledges that (i) she/he has reviewed the above agreement on behalf of her/his client and (ii) as to her/his client only, has determined that the Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

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

**Participating Agency – Sample Signature Page**

CITY/TOWN NAME, an Arizona  
municipal corporation

\_\_\_\_\_  
\_\_\_\_\_, Mayor

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

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City/Town Clerk

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned Attorney acknowledges that (i) she/he has reviewed the above agreement on behalf of her/his client and (ii) as to her/his client only, has determined that the Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
\_\_\_\_\_, City/Town Attorney

EXHIBIT A  
TO  
INTERGOVERNMENTAL AGREEMENT  
FOR SHARING THE RESULTS OF THE E-VERIFY AUDITS

(Initial Participating Agencies)

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
FOR SHARING THE RESULTS OF THE E-VERIFY AUDITS**

**INITIAL PARTICIPATING AGENCIES**

1. City of Avondale

Notice to: 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.

2. City/Town Name

Notice to: City/Town Name  
Address  
Address  
Facsimile: \_\_\_\_\_  
Attn: \_\_\_\_\_, Title

With copy to: Name of Company  
Address  
Address  
Facsimile: \_\_\_\_\_  
Attn: \_\_\_\_\_

EXHIBIT B  
TO  
INTERGOVERNMENTAL AGREEMENT  
FOR SHARING THE RESULTS OF THE E-VERIFY AUDITS

(Additional Participating Agencies)

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
FOR SHARING THE RESULTS OF THE E-VERIFY AUDITS**

**ADDITIONAL PARTICIPATING AGENCIES**

1. City/Town Name

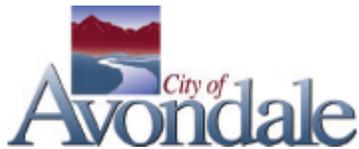
Notice to: City/Town Name  
Address  
Address  
Facsimile: \_\_\_\_\_  
Attn: \_\_\_\_\_, Title

With copy to: Name of Company  
Address  
Address  
Facsimile: \_\_\_\_\_  
Attn: \_\_\_\_\_

2. City/Town Name

Notice to: City/Town Name  
Address  
Address  
Facsimile: \_\_\_\_\_  
Attn: \_\_\_\_\_, Title

With copy to: Name of Company  
Address  
Address  
Facsimile: \_\_\_\_\_  
Attn: \_\_\_\_\_



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2847-809 and Ordinance 1383-809 -  
Chapter 6 -Personnel Policies and Procedures,  
Benefits

**MEETING DATE:**

August 10, 2009

**TO:** Mayor and Council

**FROM:** Cherlene Penilla, Human Resources Director (623)333-2218

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Council will review and consider a proposed amendment to the Personnel Policies and Procedures, Chapter 6, Benefits, to add Arizona State Victim's Leave Law and reflect that any regular part-time employees hired after 9/15/2009 are not eligible for benefits.

**BACKGROUND:**

Due to changes in state law (Arizona Revised Statute 8-420, 13-4439) it is necessary to add a new section K to the Policy and Procedures stating that all employees who are victims of crimes would be allowed to leave work (while utilizing vacation, sick or compensation time) to exercise their right to be present at legal proceedings related to the crimes.

Further, as part of a continuing effort to review benefits and compensation, staff is recommending that regular part-time employees hired after 9/15/2009 will not be eligible for benefits as defined in the policy.

**DISCUSSION:**

Staff is recommending that Section K, which outlines the Victim's Leave Law in relation to the Arizona Revised Statute 8-420, 13-4439 stating all employees who are victims of crimes would be allowed to leave work (while utilizing vacation, sick or compensation time) to exercise their right to be present at legal proceedings related to the crimes be added to the Policy and Procedures. New section K will read as follows:

**K. Victim's Leave***1. Purpose and Eligibility*

The City of Avondale will allow employees who are victims of crimes to leave work to exercise their right to be present at legal proceedings related to the crimes in accordance with Arizona State Victim's Leave Law (Arizona Revised Statutes 8-420, 13-4439). Any City of Avondale employee is eligible for leave under this policy, except if the employee's family member is the victim and the employee is in custody for an offense or is the accused.

*2. Use of Victims Leave*

A request for victim's leave must be made to the immediate supervisor providing as much notice as practical. In making this request, the employee shall provide:

- a) A copy of the form provided to the employee by the law enforcement agency and
- b) A copy of the notice of each scheduled proceeding that is provided to the victims by the responsible agency.

Leave records under this policy shall be maintained in a confidential manner. When using victim's leave, the eligible employee may use accrued vacation or time earned. Compensatory time earned may be used for non-exempt employees to remain in a pay status while absent from work. If the employee has exhausted all accrued leave balances or if the employee is not benefit eligible, the leave of absence shall be unpaid and will need to be approved by the city manager. While there is no maximum amount of time allocated for the victim's leave, the City of Avondale reserves the right to limit the leave provided under state law if the employees' absence from work creates an undue hardship to city business.

The following additions have been added into the appropriate sections of Chapter 6:

Regular part-time employees (working 30 hours or less) hired after 9/15/2009; are not eligible for sick leave.

- Regular part-time employees (working 30 hours or less) hired after 9/15/2009 are not eligible for vacation leave.
- Regular part-time employees (working 30 hours or less) hired after 9/15/09 are not eligible for holiday bank hours.
- Regular part-time employees (working 30 hours or less) hired after 9/15/2009 are not eligible for holiday differential pay.
- Part-time employees are not eligible for bereavement leave.
- All regular part-time employees hired after 9/15/2009 are not eligible for any health, dental, life or optional insurances.

**BUDGETARY IMPACT:**

There are no direct costs associated with this amendment to the City of Avondale Policies and Procedures.

**RECOMMENDATION:**

Staff recommends that Council adopt this amendment to the City of Avondale Policies and Procedures.

**ATTACHMENTS:**

Click to download

- [📄 Resolution 2847-809](#)
- [📄 Ordinance 1383-809](#)
- [📄 Chapter 6 - Policies and Procedures Manual](#)

**RESOLUTION NO. 2847-809**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "CITY OF AVONDALE EMPLOYEE BENEFITS POLICY."

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

SECTION 1. That certain document entitled the "City of Avondale Employee Benefits Policy, Amended and Restated August 10, 2009," of which three copies are on file in the office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk.

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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Andrew J. McGuire, City Attorney

**ORDINANCE NO. 1383-809**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE PERSONNEL POLICIES AND PROCEDURES MANUAL, CHAPTER 6, EMPLOYEE BENEFITS, AND ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT KNOWN AS THE "CITY OF AVONDALE EMPLOYEE BENEFITS POLICY."

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

SECTION 1. That certain document known as the "City of Avondale Employee Benefits Policy, Amended and Restated August 10, 2009," three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 2847-809 of the City of Avondale, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 2. That the City of Avondale Personnel Policies and Procedures Manual (the "Personnel Manual"), Chapter 6, Employee Benefits, is hereby deleted in its entirety and replaced by the City of Avondale Employee Benefits Policy Amended and Restated August 10, 2009, which shall be inserted into the Personnel Manual as a new Chapter 6, Employee Benefits.

SECTION 3. That if any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the City of Avondale Employee Benefits Policy, Amended and Restated August 10, 2009, adopted herein by reference is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

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

ATTEST:

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

APPROVED AS TO FORM:

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



City of Avondale

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**CITY OF AVONDALE  
EMPLOYEE BENEFITS POLICY  
AMENDED AND RESTATED  
August 10, 2009**

## **CHAPTER 6**

### **Employee Benefits**

#### **A. Sick Leave**

##### **1. Sick Leave Defined**

- a.) Sick leave is an approved period of absence granted to an employee due to:
  - (i) Illness, injury or other medical condition which renders the employee unable to perform the duties of the position.
  - (ii) Illness, injury, medical condition evaluation procedure or treatment by a licensed health care practitioner, of an employee's immediate family member. For the purpose of this section, immediate family member shall be defined as a husband, wife, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparent or grandchild of an employee, step-child, a child whose adoption is in process, or other legal dependents. Sick leave may also be granted under Family Medical Leave Act ("FMLA").
- b.) An adoptive parent may request sick leave to include appointments with adoption agencies, social workers, attorneys, court proceedings, required travel and any other activities necessary to allow adoption to proceed.

##### **2. Accumulation of Sick Leave**

- a.) Employees will accrue sick leave at the rate of 3.70 hours per biweekly pay period.
- b.) Sworn firefighters working a scheduled 56-hour work week will accrue sick leave at 5.18 hours per biweekly pay period.
- c.) Employees who work fewer than 2080 hours annually, or who are regular part-time employees, will accrue sick leave at the rate of 1.85 hours per biweekly pay period.
- d.) Regular part-time employees (working 30 hours or less) hired after September 15, 2009, are not eligible for sick leave.
- e.) Sick leave hours are accumulated without limit
- f.) When an employee is promoted, demoted or transferred, he/she shall retain all accrued sick leave.

##### **3. Sick Leave Usage**

Employees eligible for sick leave usage by this policy may use sick leave hours only as provided. Sick leave is a privilege, not a right. Employees are subject to discipline for misuse or abuse of sick leave privileges.

- a.) Sick leave may be taken when approved by the Department Director.
- b.) A Department Director may require a submission of evidence substantiating the need for sick leave. An absence of three or more days shall be reported to the Human Resources Department to determine if FMLA leave is warranted.
- c.) Sick leave hours taken will not count toward hours worked for purposes of computing overtime.

**4. Compensation for Sick Leave**

- a.) Compensation upon resignation will be 33.3% of accrued sick leave at the employee's current hourly rate.
- b.) Compensation upon retirement will be as follows:
  - (i) Employees with 10 years of continuous service with the City will receive 100% of accrued sick leave up to 250 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
  - (ii) Employees with 20 years of continuous service with the City will receive 100% of accrued sick leave up to 500 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.

**B. Family and Medical Leave Act ("FMLA")**

**1. General Provisions**

It is the policy of the City of Avondale to grant up to 12 weeks of FMLA leave during any 12-month period to eligible employees. The City may grant up to a maximum of 26 weeks in a 12-month period for employees taking FMLA Injured Servicemember leave. FMLA may be paid, unpaid or a combination of paid and unpaid leave depending on the circumstances of the leave and as specified in this policy. The City has the right to designate leave, paid or unpaid, as FMLA leave, even if the employee does not request leave as FMLA. Sick leave may be granted under Servicemember Leave of the FMLA and only during this time can sick leave be used.

**2. Eligibility**

To qualify to take FMLA leave under this policy, the employee must meet all of the following conditions:

- a.) The employee must have worked for the City for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week.

- b.) The employee must have worked at least 1250 hours during the 12-month period immediately before the date when the FMLA leave is requested to commence. The principles established under the Fair Labor Standards Act (“FLSA”) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave will not be counted in determining the 1250 hours eligibility test for an employee under FMLA.

### **3. Types of Leave Covered**

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- a.) The birth of a child and in order to care for that child;
- b.) The placement of a child for adoption or foster care and to care for the newly placed child;
- c.) To care for a close family member (usually a spouse, child, or parent) with a serious health condition; or
- d.) The serious health condition (described below) of the employee.
  - (i) An employee may take FMLA leave due to a serious health condition that makes the employee unable to perform the functions of the employee’s position. A serious health condition can include inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition which requires continuing care by a licensed health care provider. However, a serious illness may also include other ailments short of hospitalization.
  - (ii) This FMLA leave policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition.
- e.) Qualifying Exigency Leave (necessity) arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
- f.) Servicemember Family Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 work weeks of FMLA leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 work weeks of leave. If husband and wife both work for the City, the husband and wife may only take a combined total of 26 workweeks of leave.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid FMLA leave as provided under this policy, the City may designate all or some portion of related leave taken as FMLA leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

Employees with questions about who and what situations are covered under this FMLA leave policy or under the City's sick leave policies are encouraged to consult with the Human Resource Department.

The City requires an employee to provide a doctor's certification of the serious health condition. The certification process is outlined in this policy. The City relies heavily on the physician's assessment.

An eligible employee can take up to 12 weeks of leave under this policy during any rolling 12-month period. The City will measure the 12-month period forward from the date any employee's first FMLA leave begins. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time. If a husband and wife both work for the City, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a child, or parent with a serious health condition, the husband and wife may each take 12 weeks each of leave.

#### **4. Employee Status and Benefits During Leave**

While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.

The employee pays a portion of the dependent health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Finance and Budget Department by the 10th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The City will provide 15 days' notification prior to the employee's loss of coverage.

If the employee contributes to a dental plan, life insurance, disability plan or any other type of insurance plan the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits; provided, however, that the employee shall pay their portion of the premiums. If the employee does not continue these payments, the

City may discontinue coverage during the leave and Consolidated Omnibus Budget Reconciliation Act (“COBRA”) would be offered. If the City maintains coverage, the City may recover the costs incurred for paying the employee’s share of any premiums whether or not the employee returns to work.

**5. Employee Status After Leave**

Upon return from FMLA leave, an employee is entitled to be returned to the same position held when leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

**6. Use of Paid and Unpaid Leave**

If the employee has accrued or earned sick leave, the employee must use paid sick leave first and exhaust all accrued sick leave balances prior to taking any portion of the 12 weeks as unpaid FMLA leave. An employee who is taking FMLA leave because of the employee’s own serious health condition or the serious health condition of a family member must use all sick leave prior to being eligible for unpaid leave.

Disability leave for the birth of a child and for an employee’s serious health condition, including Workers’ Compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA leave. For example, if the City provides six weeks of pregnancy disability leave, the six weeks can be designated as FMLA leave and counted toward the employee’s 12 week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12 week entitlement.

**7. Intermittent Leave or a Reduced Work Schedule**

An employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all circumstances, the leave may not exceed a total of 12 work weeks over a rolling 12-month period. For the birth of a child, the employee may take up to 12 consecutive work weeks.

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for FMLA leave for the employee or employee’s family member that is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

If the employee is taking FMLA leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the City before taking intermittent FMLA leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the FMLA leave is

medically necessary. The City requires certification of the medical necessity as set forth in this policy.

## **8. Certification of the Serious Health Condition**

A serious health condition means an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

The City requires certification of a serious health condition. The employee shall make every effort to respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of FMLA leave. Medical certification may be provided by using the medical certification form. Request for a medical certificate must be made in writing as part of the City's response to employee request for FMLA leave.

If the employee plans to take intermittent FMLA leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent FMLA leave or working a reduced schedule.

The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select. The employee will be temporarily entitled to leave and benefits under the FMLA pending the second opinion.

Certification related to active duty or call to active duty - The City may require that a request under active duty or call to active duty be supported by a certification issued at such time and in such manner as prescribed by Federal Law. Please consult with the Human Resources Department for current Federal guidelines regarding notification.

## **9. Procedure for Requesting Leave**

All employees requesting leave under this policy must provide notice with an explanation of the reason(s) for the needed leave to the Human Resources Department and their immediate supervisor. If the leave is foreseeable, the employee is required to provide a written request for leave and reasons(s) to the Human Resources Department. The City will provide individual notice of rights and obligations to each employee requesting leave as soon as practicable.

When an employee plans to take leave under this policy, the employee must give the City 30 days' notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the City's operations.

If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer receives notice. While on leave, employees must report periodically to the

Human Resources Department regarding the status of the medical condition and their intent to return to work.

## **10. Job Benefits and Protection**

- a.) For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan" unless requested in writing from the employee or other legal directives given.
- b.) Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- c.) The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- d.) FMLA makes it unlawful for any employer to:
  - (i) Interfere with, restrain or deny the exercise of any right provided under FMLA.
  - (ii) Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## **11. Enforcement**

- a.) The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- b.) An eligible employee may bring a civil action against an employer for violations.
- c.) FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law which provides greater family or medical leave rights.

### **C. Short-Term Disability**

The short-term disability benefit provided by the City of Avondale is an income replacement for employees unable to work due to illness or injury (non-job related).

#### **1. Eligibility**

A regular, full-time employee who is unable to work due to illness or injury (non-job related) is eligible for short-term disability benefits. The employee must have exhausted all paid sick leave and be absent from work for a minimum of 14 calendar days prior to being eligible for the short-term disability benefit. For injuries or illnesses requiring immediate hospitalization, the benefit shall commence on the date of hospitalization. An employee receiving Workers' Compensation or disability pay under any State of Arizona plan policy is ineligible for this benefit. To be eligible for continued disability benefits,

the employee must not engage in outside employment and is expected to avoid activities that may delay recovery and a return to work. Violations of this policy will result in disciplinary action up to, and including dismissal from City employment.

## **2. Benefit Payment**

The short-term disability benefit payment is 60% of the employee's base weekly wages or salary, to a maximum of \$1,500 per week. The benefit may be paid for a maximum of 25 weeks in a one-year period. Payments are made in accordance with the City payroll periods. The benefit is taxable income.

## **3. Medical Certification**

The employee must provide medical certification of the disability that includes the starting and expected ending date of the disability. This certification will be submitted to the City's Third Party Administrator ("TPA") who will review the certification and make a determination on benefit qualification.

## **4. Reporting Requirement**

While on short term disability, employees are required to report periodically to the Human Resources Department, at least every 30 days, regarding the status of their medical condition and their intent to return to work. Employees will be required to provide medical evidence substantiating their need for continued leave to the Human Resources Department who will then submit it to the TPA.

## **5. Return to Work**

The employee must return to work as soon as permitted by his or her healthcare provider. The employee must submit a fitness-to-return-to-duty clearance to the Human Resources Department. An employee whose absence has been designated as FMLA leave is eligible for reinstatement as provided by the FMLA leave policy upon his/her return to work.

## **6. Employee Benefits**

The City will pay its portion of the cost of the employee's benefits including health, dental, life and disability insurance benefits while an employee is on FMLA with or without paid leave (vacation or sick). The employee must continue to pay his or her portion of the benefits which may be made by payroll deductions (when applicable) or by personal check which must be submitted to the Finance and Budget Department. The payment must be received in the Finance and Budget Department by the 10th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The City will provide 15 days' notification prior to the employee's loss of coverage. If the employee fails to pay his or her portion of the benefits for more than 30 days, the employee's coverage(s) will be terminated and he/she will be offered COBRA to continue benefits, excluding life and disability insurance.

When the twelve week period for FMLA coverage has ended and the employee has exhausted all paid leave, the employee will be responsible for the total cost of the health insurance premiums on any health insurance coverage the employee or the employee's family is receiving through the City during this extended leave period, unless otherwise provided by law.

Employees with any questions regarding this policy should contact the Human Resources Department.

**7. Leave Accruals**

While on short-term disability leave accruals will discontinue until employee is released back to work.

**D. Vacation Leave**

**1. Accumulation of Vacation Leave**

a.) All full-time employees, excluding sworn firefighters, will accrue vacation leave as follows:

<b>Non-Exempt</b>	<b>(First 5 Years)</b>	3.7 hours per pay period (96 hours per year)
	<b>(5 – 10 Years)</b>	4.62 hours per pay period (120 hours per year)
	<b>(10 – 15 Years)</b>	5.54 hours per pay period (144 hours per year)
	<b>(15 Years +)</b>	6.16 hours per pay period (160 hours per year)

<b>Exempt</b>	<b>(First 5 Years)</b>	4.62 hours per pay period (120 hours per year)
	<b>(5 – 10 Years)</b>	5.54 hours per pay period (144 hours per year)
	<b>(10 Years +)</b>	6.16 hours per pay period (160 hours per year)

b.) All Assistant Department Directors will accrue vacation leave as follows:

<b>ASSISTANT DEPARTMENT DIRECTORS</b>	
<b>First 5 Years</b>	5.54 hours per pay period (144 hours per year)
<b>5+ Years</b>	6.16 hours per pay period (160 hours per year)

c.) All Department Directors and Assistant City Managers will accrue vacation leave as follows:

<b>Assistant City Managers And Department Directors</b>
6.16 hours per pay period (160 hours per year)

- d.) All full-time sworn firefighters working a scheduled 56-hour work week (normally scheduled to work varying shifts of duty during a 24-hour period), excluding the Department Director, supervisory personnel and others assigned a regular 40-hour work week, will accrue vacation leave as follows:

<b>Full-Time Sworn Firefighters</b>	
( 0 – 5 years)	10.28 hours per pay period
61 months – 120 months (5 – 10 years)	11.20 hours per pay period
121 months – 180 months (10 – 15 years)	12.12 hours per pay period
181 months + (15 years +)	13.05 hours per pay period

- e.) Upon hiring any employee, a Department Director may request that an employee be hired with vacation leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors. The Human Resources Director must review and approve this request prior to any official written offer of employment.

- f.) Part-time regular employees will accrue vacation leave as follows:

<b>First Five (5) Years</b>	1.85 hours per pay period
<b>5 to 10 Years</b>	2.31 hours per pay period
<b>10 to 15 Years</b>	2.77 hours per pay period
<b>15+ Years</b>	3.08 hours per pay period

- g.) Temporary and seasonal employees shall not be eligible for, or accrue, vacation leave.
- h.) Vacation leave hours taken will not count toward hours worked for purposes of computing overtime.
- i.) Regular part-time employees (working 30 hours or less) hired after September 15, 2009, are not eligible for vacation leave.

## **2. Maximum Accumulation of Vacation Time**

Eligible employees have a maximum accrual of vacation time of 240 hours. Sworn firefighters working a scheduled 56-hour work week shall have a maximum accrual of vacation time of 336 hours.

- a.) Employees must use all hours over the maximum accrual by the end of each calendar year. Employees will lose any vacation leave hours over the maximum accrual amount not used by December 31st of each calendar year.
- b.) Vacation leave accumulated in excess of 240 hours (336 hours for sworn firefighters) as of the last day of the last pay period starting in any calendar year shall be forfeited, unless the City Manager authorizes an exception in an individual case. The application for exception submitted through the Human Resources Department shall contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours or a combination of both.

## **3. Use of Vacation Leave**

Vacation leave shall be taken with the approval of the Department Director or designee (i.e., immediate supervisor).

- a.) Vacation will only be granted during such time as it is not disruptive to the work schedule of the department concerned.
- b.) During the original probationary period, vacation leave may be granted at the discretion of the Department Director.
- c.) Vacation leave granted shall not exceed an employee's accrued balance.

## **4. Vacation Sell Back**

Employees may be paid for a portion of accrued vacation. See Administrative Policy 40 (AP-40) for guidelines.

## **5. Impact of Vacation Hours Upon Overtime for 56-Hour Employees**

- a.) 56-hour fire employees will be compensated on a 14 day pay cycle. The number of scheduled hours in the pay cycle varies on a repeating sequence as follows: Pay period 1=96 hours, pay period 2=120, pay period 3=120, the sequence then repeats. The number of scheduled hours within a pay cycle as indicated above is referred to herein as the "Set Schedule."
- b.) Overtime calculations will be determined based upon the Set Schedule for the 14 day pay cycle. Vacation hours taken in a 14 day pay cycle shall not count as hours worked for the purposes of overtime, except when vacation hours taken are needed to fulfill the employee's Set Schedule. Any additional vacation hours exceeding the Set Schedule will not count as hours worked for purposes of overtime.

## **E. Holiday Leave Policy**

### **1. Objectives**

The objectives for the development of the holiday leave policy are:

- a.) Equalize the holiday leave allocation, so that each full-time regular employee receives 88 hours of holiday leave hours per fiscal year and each part-time employee receives 44 hours of holiday leave per fiscal year.
- b.) Identify the methods to maximize the number of days that City offices are open to serve citizens.
- c.) Ensure that the adoption of a Green Friday schedule or other alternate schedule does not increase the cost of doing business for the City.
- d.) Implement a system to increase the flexibility for employees to utilize their holiday compensation.

### **2. Accumulation of Holiday Leave**

- a.) The annual holiday leave bank for each full-time, regular employee is 88 hours and for each regular part-time employee is 44 hours per fiscal year. Temporary and seasonal employees are not eligible for holiday compensation or holiday differential pay. For the purposes of this policy, the holiday will be defined as the 24-hour period (12:00 AM-11:59 PM) on the designated holiday.
- b.) Employees will be provided with a bank of 88 hours (full-time) and 44 hours (part-time) per fiscal year (July 1-June 30) to utilize for holiday compensation for designated holidays or floating holidays as set forth below. The leave banks will be populated during the first payroll period in July and January. The first allocation will be in July for 50 hours (full-time) and 25 (part-time), the second in January for 38 hours (full-time) and 19 hours (part-time). New hires will receive a prorated number of hours based upon their hire date.
- c.) Regular part-time employees (working 30 hours or less) hired after September 15, 2009, are not eligible for holiday bank hours or holiday compensation.

### **3. Designated Holidays; Floating Holidays**

A listing of City-designated holidays will be prepared for each fiscal year. This listing will be included in the Administrative Policy and posted no later than June 1 of each year. The listing will specify any and all designated holidays for the City.

- a.) If a designated holiday falls on a scheduled work day, employees will be required to use their holiday leave to cover their scheduled work hours. Employees required to work on a designated holiday due to business need, or who are not scheduled to work

on a designated holiday, will be not be required to utilize their holiday leave. Any holiday leave hours not used for designated City holidays shall be considered floating holiday leave.

- b.) In the event an employee is on paid leave when a holiday occurs, the employee shall receive no pay in addition to holiday pay. Therefore, the employee shall not be charged with applicable paid leave time (i.e. vacation or sick leave).
- c.) Floating holiday leave shall be approved to be used at such a time that is mutually agreeable to the employee and the employee's supervisor. Holiday leave will not be available for use on an unplanned or call-in basis.

#### **4. Holidays Eligible for Differential Pay**

- a.) Each June, a listing will be included in the Administrative Policy of any holidays that will be paid a holiday differential. Non-exempt employees who are required to work on one of the listed holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays. This compensation may be in overtime or compensatory time, depending on the needs of the department (compensatory time guidelines have been established in Chapter 5 of the City of Avondale Policies & Procedures Policy Manual) The additional compensation would only be for the actual day of the holiday, not the Friday or Monday before or after (example: July 4th is on a Sunday; employees working on July 4th would be eligible for additional compensation; employees working on July 3rd or 5th would not).
- b.) Exempt employees would not be eligible for any additional compensation if required to work on one of the holidays eligible for differential pay.
- c.) Regular part-time employees (working 30 hours or less) hired after September 15, 2009, are not eligible for holiday differential pay.

#### **5. Use of Holiday Leave**

- a.) It will be the employees' responsibility to monitor their holiday leave usage.
- b.) Holiday leave must be used in full day increments. A full day will be considered the number of hours scheduled for the day that the leave was taken (e.g. employee was scheduled to work ten hours on a holiday, ten hours of holiday pay would be utilized). In the event that the employee does not have enough holiday hours in her/his bank to cover a full day's absence, vacation hours or compensatory time will be used to make up the difference. The same concept shall apply to all regular part-time employees.
- c.) All holidays hours not taken prior to the last day of employment with the City shall be forfeited.
- d.) Holiday hours must be used by June 30 of each year or will be forfeited. There will be no "cash out" or carryover of holiday hours.

- e.) In the event that an exempt or non-exempt employee does not have either holiday hours, compensatory hours or vacation hours to cover a designated holiday, they will be placed in a leave without pay (“LWOP”) status. This will mean that both an exempt and nonexempt employee will have the uncompensated hours deducted to cover their absence.
- f.) Holiday hours will not count toward hours worked for purposes of overtime for hourly employees.
- g.) Holiday differential is paid in addition to any overtime pay due. Holiday differential pay will not be included in determining the regular hourly rate of pay for the purpose of calculating overtime payments.

**6. Certain Firefighters Ineligible**

Firefighters working a scheduled 56-hour work week are not eligible for holiday pay.

**7. Certain Police Employees Not Participating**

Sworn police officers (except Criminal Investigations Bureau (CIB)), detention officers, police communications staff and park rangers (“Specified Police Employees”) will not be participating in the holiday leave program set forth above. Specified Police Employees will receive 8 hours of compensation for each of the following holidays as they occur in the calendar:

SPECIFIED POLICE EMPLOYEE HOLIDAYS
INDEPENDENCE DAY
LABOR DAY
VETERAN’S DAY
THANKSGIVING
DAY AFTER THANKSGIVING
CHRISTMAS DAY
NEW YEAR’S DAY
MLK
PRESIDENT’S DAY
MEMORIAL DAY
PERSONAL DAY TO BE SCHEDULED BY EMPLOYEE

- a.) Specified Police Employees will have one 8-hour personal day to schedule at their discretion with their supervisor each fiscal year. Personal days and holidays will not be carried over into a new fiscal year. A personal day (8 hours) will be given to the employee on July 1 of each fiscal year. New hires will receive a personal day upon their hire. The personal day must be scheduled in the fiscal year it is earned. Unused personal days will not be paid out at the end of the fiscal year or upon resignation of the employee.

- b.) The Specified Police Employee holiday hours set forth above will not count as hours worked for the purpose of overtime compensation. Employees who are required to work on designated holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays.

Example 1: Employee works 14 hours on the holiday (Wednesday\*) and works three other days in the week.

Time	Total	M	T	W*	Th	F	S	Su
Hours worked	46	10	11	14	11			

**End Result:**

Hours worked	46
Holiday compensation at straight rate	8
Regular Hours at straight rate	40
Overtime at 1.5	6
Holiday Differential at .5	14

Example 2: Employee works 14 hours on the holiday (Wednesday\*) and calls in sick on Monday for the entire shift of 10 hours.

Time	Total	M	T	W*	Th	F	S	Su
Hours worked	36		11	14	11			
Sick Leave	10	10						

**End Result:**

Hours worked	36
Holiday compensation at straight rate	8
Sick leave at straight rate	10
Regular Hours at straight rate	54
Overtime at 1.5	0
Holiday Differential at .5	7

**F. Industrial Leave**

**1. Workers' Compensation Coverage and Supplemental Pay**

The City provides, at no cost to employees, Workers' Compensation coverage, which provides, in accordance with Arizona State law, injury care, and lost wage protection for work-related injuries and illnesses. The City provides supplemental pay for active employees in addition to the Workers' Compensation wage benefit after one full year of employment. The supplemental pay starts from the eighth calendar day, and is intended to compensate employees up to the full amount of their regular pay. Sick leave will be

used during the first seven days counted from the first calendar day after the injury if the employee is off work less than 14 days. Employees will receive their regular rate of pay for the day of the injury. Workers Compensation does not reimburse employees for time off to attend doctor's visits or physical therapy visits. If these visits are deemed medically necessary by a licensed practitioner it is up to the department supervisor to determine if time can be taken off during work hours and if the employee will be paid for that time.

**2. Determination of Compensability**

The City's Workers' Compensation carrier will determine compensability for workplace injuries and illnesses.

**3. Separation During a Claim**

An individual who separates from City employment will only be entitled to the compensation required under Arizona Workers' Compensation Law.

**G. Leave Without Pay**

**1. Request and Determination**

Employees may request, in writing, leave without pay ("LWOP") for certain restricted reasons. The Department Director, Human Resources and City Manager will determine whether or not to approve the leave request.

**2. Leave Accruals Discontinued**

Vacation and sick leave accruals will discontinue at the point an employee goes on leave without pay and will commence when they return to work.

**3. Insurance Discontinued**

After two pay periods of leave without pay, health, dental, vision and life insurance for the employee and any dependent coverage will discontinue. COBRA coverage will be offered to the employee and dependents.

**4. Unauthorized Absence**

Any unauthorized absence of an employee from duty will be deemed absence without pay and may be grounds for disciplinary action up to and including dismissal from City employment.

**5. Failure to Return After Notice**

Failure on the part of an employee to return to duty within 48 hours after written notice to return has been sent to his/her last known address will be cause for immediate discharge and the employee automatically waives all appeal rights under this policy.

## **H. Bereavement Leave**

### **1. General**

Upon the death of an employee's immediate family member, an employee may be granted paid bereavement leave not to exceed five work days or 40 hours. Employees working a scheduled 56-hour work week bereavement leave will be calculated at 1.4 times the regular rate. Additional hours beyond the limit may be charged to an employee's sick leave or vacation leaves at the employee's discretion and with the Department Director's approval. Upon the death of an employee's aunt, uncle, or cousin, an employee may be granted paid bereavement leave not to exceed one work day or eight hours. Only full-time regular and/or probationary employees are eligible for bereavement leave. Part-time employees are not eligible for bereavement leave.

### **2. Immediate Family Defined**

For purposes of bereavement leave, "immediate family" shall refer to a spouse, son, son in-law, daughter, daughter in-law, mother, mother in-law, father, father in-law, brother, brother in-law, sister, sister in-law, grandparent, grandparent in-law, grandchild or step-child, step-parent, step-brother or step-sister.

## **I. Military Leave**

All regular employees who are or may be members of the National Guard or the Military Reserves (U.S. Armed Forces) will be entitled to leave of absence with pay, upon written request to the City Manager, from their respective duties on all days during which they are employed with or without pay under the orders of or authorization of competent authority, on active duty during training or duty with troops, field exercises or instruction for a total period not to exceed the lesser of 30 working days or 240 hours in any two consecutive years. Leave will be calculated at 1.4 times the regular rate (336 hours) for employees working a scheduled 56-hour work week.

## **J. Civic Duty Leave**

### **1. General**

Upon substantiated application, an employee shall be granted leave with pay as civic duty leave while serving as a juror, complying with a subpoena and voting.

### **2. Use of Civic Duty Leave**

Except for voting pursuant to ARIZ. REV. STAT. § 16-401 (primary elections) or ARIZ. REV. STAT. § 16-402, (general elections) as amended, an employee granted civic duty leave shall report for work whenever the employee's presence is not required for the civic duty, unless:

- a.) The distance to the work location would preclude timely reporting for the civic duty; or
- b.) The employee cannot return to work at least one hour before the end of the work shift.

Civic duty leave will not count towards hours worked for purpose of computing overtime.

### **3. General Election Day**

- a.) The biannual general election day (the first Tuesday following the first Monday in November of every even-numbered year) is not a legal holiday. However, every public officer or employee is entitled to have adequate time to vote, as set forth in ARIZ. REV. STAT. § 16-402, as amended. The three consecutive hours immediately after the opening or the three consecutive hours prior to the closing of the polls is provided for this purpose.
- b.) Arrangements must be made with the supervisor prior to general election day and the supervisor may determine which hours are more suitable in accordance with the needs of the department.

### **4. Appearance as a Witness**

An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's own personal business.

### **5. Jury and Witness Fees**

Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any fees to the City Finance and Budget Department, except for mileage allowance.

## **K. Victim's Leave**

### **1. Purpose and Eligibility**

The City will allow employees who are victims of crimes to leave work to exercise their right to be present at legal proceedings related to the crimes in accordance with Arizona State Victim's Leave Law (ARIZ. REV. STAT. §§ 8-420, 13-4439) as amended. Any City employee is eligible for leave under this policy, except if the employee's family member is the victim and the employee is in custody for an offense or is the accused.

### **2. Use of Victims Leave**

A request for victim's leave must be made to the immediate supervisor providing as much notice as practical. In making this request, the employee shall provide both of the following documents:

- a.) A copy of the form provided to the employee by the law enforcement agency.
- b.) A copy of the notice of each scheduled proceeding that is provided to the victims by the responsible agency.

Leave records under this policy shall be maintained in a confidential manner. When using victim's leave, the eligible employee may use accrued vacation or time earned. Compensatory time earned may be used for non exempt employees to remain in a pay status while absent from work. If the employee has exhausted all accrued leave balances or if the employee is not benefit eligible, the leave of absence shall be unpaid and need to be approved by the City Manager. While there is no maximum amount of time allocated for the victim's leave, the City reserves the right to limit the leave provided under state law if the employees' absence from work creates an undue hardship to City business.

#### **L. Administrative Leave**

The Human Resources Department may authorize the granting of administrative leave to temporarily relieve an employee of his/her duties during an investigation and/or pending the outcome of a hearing. Administrative leave may be authorized with or without pay depending upon the specific circumstance.

#### **M. Health, Dental, Life and Optional Insurances**

Subject to the approval of City Council, the City provides health, dental and life insurance to regular status full-time employees. Insurance coverage begins 30 days after the first day of the month following the employee's first day of employment. All regular part-time employees hired after September 15, 2009, are not eligible for any health, dental, life or optional insurances.

##### **1. Medical Insurance**

Employees hired in 30-40 hour positions are covered by the City's regular medical insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's medical insurance plans.

##### **2. Dental Insurance**

Employees hired in 30-40 hour positions are covered by the City's dental insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's dental insurance plans.

### **3. Life Insurance**

Employees hired in 30-40 hour positions are covered by the City's basic life insurance plan. These employees may purchase additional life insurance. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's life insurance plans.

### **4. Optional Insurance Benefits**

The City may provide optional benefits through payroll deduction.

## **N. Continuation of Health Insurance under Consolidated Omnibus Budget Reconciliation Act ("COBRA")**

Under the Consolidated Omnibus Budget Reconciliation Act of 1985, better known as COBRA, if an employee terminates employment with the City, the employee is entitled to continue participating in the City's group health plan for a prescribed period of time, usually 18 months. (In certain circumstances, such as an employee's divorce or death, the length of coverage period may be longer for qualified dependents.) COBRA coverage is not extended to employees terminated for gross misconduct.

If a former employee chooses to continue group benefits under COBRA, he/she must pay the total applicable premium plus a 2% administrative fee. Coverage will cease if the former employee fails to make premium payments as scheduled, becomes covered by another group plan that does not exclude pre-existing conditions, or becomes eligible for Medicare.

For detailed information or questions on COBRA, employees are requested to check with the Human Resources Department.

## **O. Workers' Compensation Insurance**

### **1. General**

Workers' Compensation provides a medical and hospitalization expenses benefit as well as partial payment in lieu of salary for workers injured on the job. All City employees are covered by this form of insurance at no cost to the employee from the first day of employment. Benefits are based on 66 2/3% of the monthly wage up to \$3,000.

### **2. Temporary Disability and Sick Leave**

An employee receiving temporary disability payments pursuant to the laws related to Workers' Compensation may elect to use accumulated sick leave in order to continue his/her regular income if employed with the City less than one year. Sick leave must be used in increments of not less than eight hours per pay period. The purpose of this policy is to ensure that an employee does not suffer economic hardship as a result of his/her injury; however, the employee shall not make a financial gain as a result of his/her injury or illness.

### **3. Reporting Period**

All job-related personal injuries to employees must be reported to Risk Management within 24 hours of the time the accident occurred.

### **4. Choice of Care Provider**

The City has the right to request that an employee injured on the job, seek medical assistance from a doctor of the City's choice.

## **P. Retirement Plans**

Enrollment in the Arizona State Retirement System or the Public Safety Personnel Retirement System or the Correctional Officers Retirement Plan will be determined based upon eligibility. The Public Safety Personnel Retirement System is for certified peace officers and firefighters.

Deductions for all plans are made from each pay period. The amount of the City's contributions, as well as employee contributions, is determined by state legislation.

## **Q. Deferred Compensation Plan**

Under this optional plan, which is governed by Internal Revenue Service (IRS) Code 457, an employee may choose to defer a portion of his/her income through payroll deduction. The deferred amount is not taxable until withdrawn, and various options are available for the investment of these funds. There are no City matching funds for this benefit. By deferring income, an employee may lower the income tax they currently pay.

## **R. Health Savings Account ("H.S.A.")**

### **1. General**

Health Savings Accounts ("H.S.A.") were created by Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. H.S.A. are designed to help individuals save for qualified medical and retiree health expenses on a tax-advantaged basis.

### **2. Employee Choice**

Employees who select a high deductible health plan may be eligible to participate in an H.S.A.

### **3. City Contribution**

The City may elect to contribute funds to employee's H.S.A. accounts.

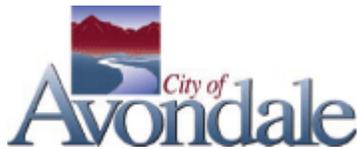
## **S. Flexible Spending Arrangements (“FSA”)**

### **1. General**

Health Flexible Spending Arrangements and Dependent Care Flexible Spending Arrangements (“FSA”) allow employees to be reimbursed for medical expenses.

### **2. Process**

- a.)** Employees may contribute to FSA accounts up to the limit set by the City.
- b.)** No employment or federal income taxes are deducted from employee contributions to FSA accounts.
- c.)** The City may elect to contribute funds to employee’s FSA accounts.



# DEVELOPMENT SERVICES

**SUBJECT:**

Public Hearing - PAD Zoning Extension - Fleming Farms (Z-09-1)

**MEETING DATE:**

August 10, 2009

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

---

**REQUEST:** Extend the period allowed for commencement of construction for the Fleming Farms PAD for one additional year to September 5, 2010

**PARCEL SIZE:** Approximately 67 acres

**LOCATION:** Southwest corner of Avondale Boulevard and Lower Buckeye Road

**APPLICANT:** Matt Butcher, Evergreen Development

**OWNER:** Evergreen Development

**BACKGROUND:**

The property was annexed April 17, 2006, and later rezoned from AG (Agricultural) to PAD (Planned Area Development) on September 5, 2006 (Exhibits D, E & F). The approved PAD development plan provides for single family detached residential uses on approximately 50 acres, and Neighborhood Commercial (C-1) uses on the 16.6 acre corner parcel. Three sizes of lots are provided for, 63' x 115', 68' x 115' and 73' x 115', as well as approximately 13% active open space (19% active and passive open space combined). Typical PAD requirements such as right-of-way dedication, ground water rights dedication, contribution towards a traffic signal at Avondale Boulevard and Lower Buckeye Road, notification to home buyers about Phoenix International Raceway noise and the neighboring Pyleman Dairy odor, were approved with the ordinance rezoning the property to PAD. The PAD also requires that all off-site improvements along Lower Buckeye Road and Avondale Boulevard be included in the first phase of development.

Final plats for the property were approved by City Council on April 21, 2008 and recorded May 28, 2008 and June 19, 2008 (Exhibit G). The plat created 147 residential single family lots, several tracts for open space, landscaping and storm water retention, a 16.6 acre commercial parcel at the corner of Avondale Boulevard and Lower Buckeye Road, and dedicated right-of-way along 117th Avenue, Lower Buckeye Road, and Avondale Boulevard.

On September 8, 2008, the City Council granted a one-year extension of PAD zoning to Fleming Farms citing the general downturn in the economy and the housing sector. A one year extension was required because under the previous Zoning Ordinance Section 6, development was required to begin within 2 years of approval of the PAD. The current standard in Section 6 is construction must begin within 3 years of approval of the PAD.

Subsequent to the submittal of this application for PAD extension, the development has received approval of the remaining final construction plans outstanding. The plan approval process has been continuous and ongoing since October 2007 (Exhibit H). All infrastructure construction plans are now

completed and approved for the off-site perimeter infrastructure improvements and for the infrastructure in the residential portion. On-site construction plans for the commercial portion will be submitted at a later date with development of the 16.6 acre commercial portion of the PAD. The applicant is proposing start of the construction process for the off-site infrastructure in the 3rd quarter of 2010.

#### **SUMMARY OF REQUEST:**

The applicant is requesting a one year extension of the expiration date of PAD zoning to September 5, 2010 (Exhibit H). On July 13, 2009, the applicant's attorney Mr. Edwin Bull, provided a letter to staff stating that he does not believe the PAD extension is necessary, and that the single-family portion of the PAD is already vested, because a plat has been approved and recorded for this site (Exhibit I). Nonetheless, Mr. Bull is in agreement with the developer to proceed with this request for PAD extension as a precaution.

#### **PARTICIPATION:**

Not applicable.

#### **PLANNING COMMISSION ACTION:**

Not applicable. Per Section 603.D.1 of the Zoning Ordinance, requests for extension of PAD zoning expiration go directly to City Council for consideration.

#### **ANALYSIS:**

Section 603.D of the Zoning Ordinance requires construction of on-site or off-site improvements to begin within three years of PAD zoning approval, or in this case September 5, 2009. Due to the downturn in the economy, and in particular the housing market, the developer has not begun construction. The extension, if granted, would allow sufficient time to bid the project, arrange financial assurances, and pull construction permits. Staff cannot predict the housing market a year from now, but this extension would position this development to be ready to take advantage of the market if there is a turn around. Section 603.D.5 limits the number of one-year extensions that City Council may grant to four for each PAD.

The PAD and recorded plat have a residential density of 2.96 dwelling units to the acre. This complies with the General Plan. Approximately 10 of the 147 residential lots on the north end of the property along Lower Buckeye Road are in the Low Density Residential land use category (target density of 1 dwelling unit to the acre and a maximum of 2.5 dwelling units to the acre), the remaining 137 residential lots are in the Medium Density Residential land use category (target density 2.5 dwelling units to the acre and a maximum of 4 dwelling units to the acre).

The residential portion of the PAD meets or exceeds all requirements of the Zoning Ordinance with the exception of provision of active open space. Minimum lot area and dimensions exceed the R1-6 zoning district minimums, and minimum setbacks are consistent with the R1-6 zoning district. Section 604.E of the Zoning Ordinance requires a minimum of 15% active open space. The existing PAD provides 13% with an additional 6% passive open space that consists of un-turfed retention areas, landscaped entry monument sign locations, and landscape tracts at the ends of blocks separating corner lots from streets. At the time of PAD approval, only a minimum of 10% open space was required. The active open space is comprised of a 1.77 acre park in the center of the residential lots, multi-use trails, tot lots, shaded paths with pedestrian lighting, etc. Though more active open space is desirable to conform to current PAD requirements, it would be a substantial burden to the developer in terms of time and cost to redesign the subdivision, amend the plat, and revise and resubmit construction plans.

The 16.6 acre commercial portion of the PAD substantially conforms to the uses and development standards of the Neighborhood Commercial (C-1) zoning district. The PAD exceeds C-1 development standards by requiring greater setbacks from residential (50' one-story, 75' two-story) compared to C-1 (1' for every 1' of building height), and by requiring businesses to obtain a

Conditional Use Permit (CUP) if they wish to operate between 6 a.m. and midnight. The PAD does not meet C-1 development standards where it allows a health and exercise club to be a maximum of 4,000 square feet compared to 3,000 square feet in C-1.

For a comparison of uses allowed by the PAD and C-1 see the table below.

<b>Fleming Farms PAD PAD Uses Compared to C-1 Zoning District</b>		
<b>Use</b>	<b>PAD</b>	<b>C-1</b>
Appliance service and repair	-	P
Auto part supply store*	C	P
Automobile minor repair/auto diagnostic	C	-
Car rental, with on-site pick-up & drop-off without on-site storage of vehicles	C	P
Car rental, with on-site pick-up & drop-off with on-site storage of vehicles	C	-
Car wash, self serve	C	-
Emergency medical care facility	-	P
Gas station with convenience store	C	P
Places of worship	C	P

\*This use is considered "Retail sales of new merchandise..." in C-1

In conclusion, it would not be in the City's interests to add more new housing stock at this time if there currently exists a surplus. A one-year delay in beginning construction could be beneficial for the City and the applicant. Because the PAD development standards are substantially consistent with today's PAD standards, staff recommends that the expiration date of PAD zoning be extended one additional year without additional conditions or changes to the PAD.

#### **FINDINGS:**

1. The request is consistent with the Zoning Ordinance.
2. The PAD is substantially in conformance with the Zoning Ordinance.
3. Allowing the PAD zoning to expire by not granting the extension would be a substantial burden to the developer.
4. Allowing the PAD zoning to expire by not granting the extension at this time would not be in the best interests of the City.

#### **RECOMMENDATION:**

Staff recommends that City Council GRANT the requested time extension with the provision that it expires on September 5, 2010.

#### **PROPOSED MOTION:**

I move that the City Council GRANT a time extension for Case Z-09-1 until September 5, 2010.

#### **ATTACHMENTS:**

Click to download

 [Exhibit A Zoning Vicinity Map](#)

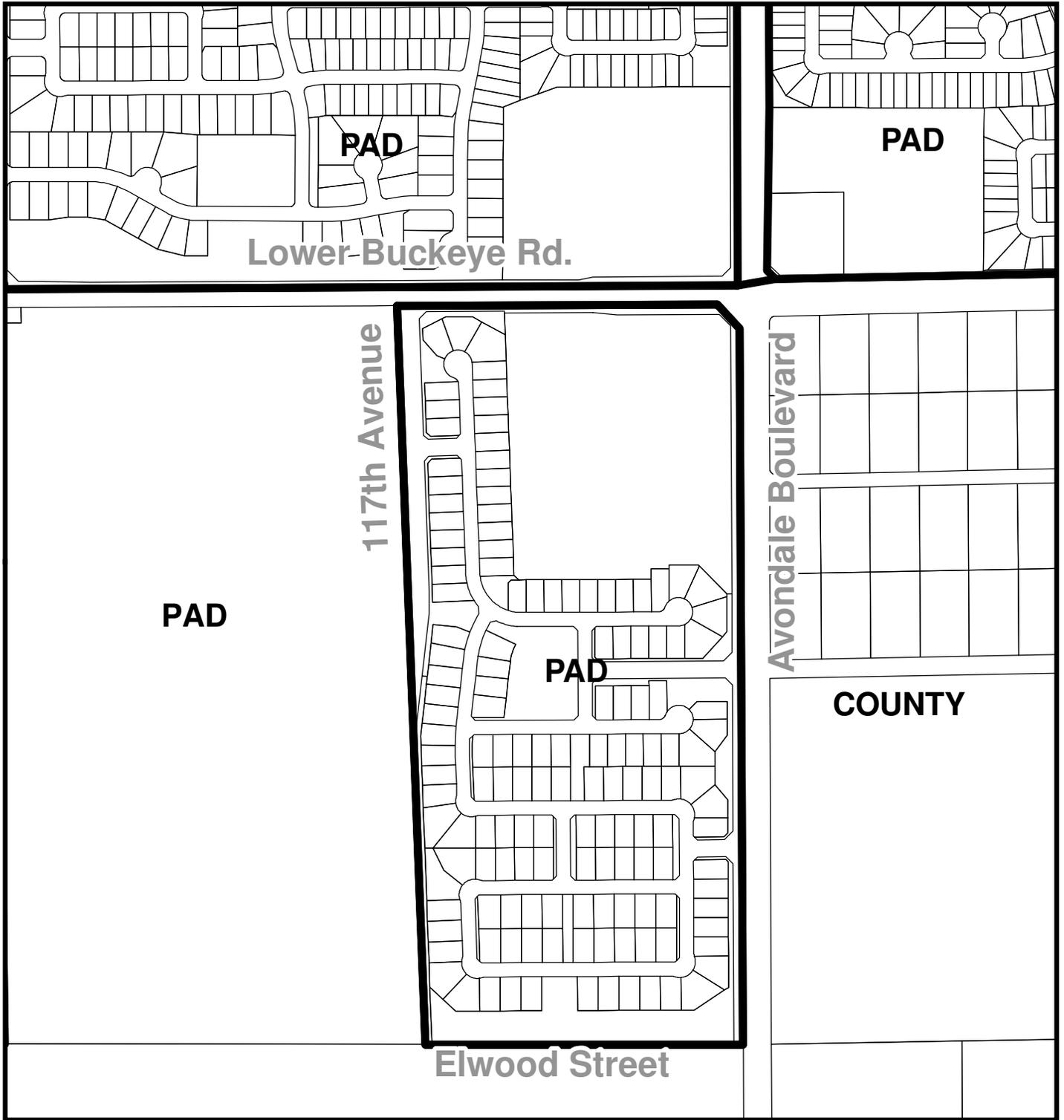
- ▢ [Exhibit B Aerial Photo 2009](#)
- ▢ [Exhibit C - Summary of Related Facts](#)
- ▢ [Exhibit D - Fleming Farms PAD Ordinance Rezoning to PAD](#)
- ▢ [Exhibit E - Fleming Farms PAD Development Plan](#)
- ▢ [Exhibit F - Excerpt of Council Minutes September 5, 2006](#)
- ▢ [Exhibit H - Request for PAD Extension of Zoning Expiration Deadline](#)
- ▢ [Exhibit I - Correspondence from attorney Ed Bull dated July 13, 2009](#)

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

None

**PROJECT MANAGER:**

Eric Morgan, Planner II (623) 333-4017

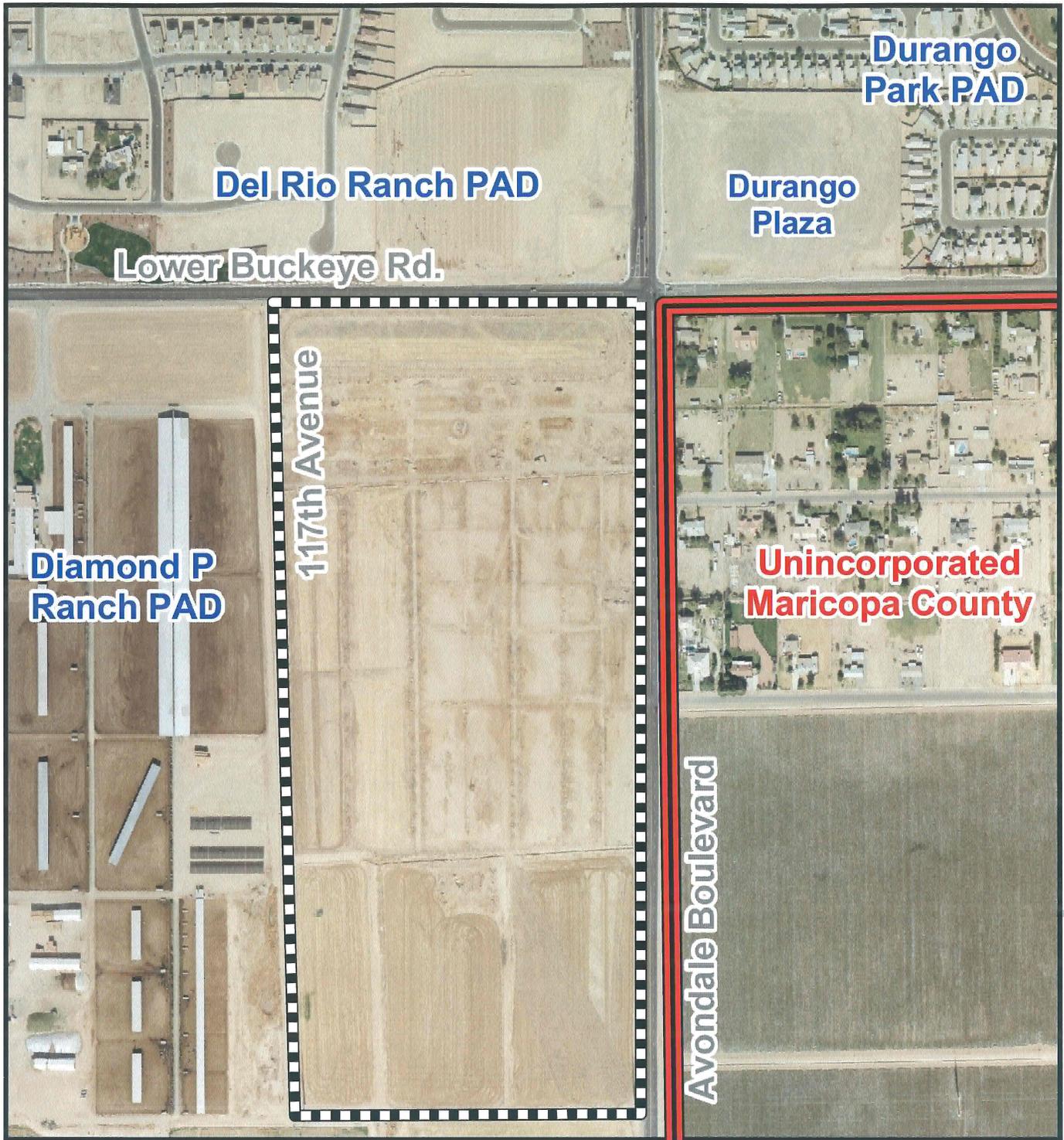


**Zoning Map  
Fleming Farms  
Z-09-1**



**Subject Property**





2009 Aerial Photograph  
Fleming Farms  
Z-09-1



Subject Property



*SUMMARY OF RELATED FACTS  
APPLICATION Z-09-1*

<i>THE PROPERTY</i>	
PARCEL SIZE	67 acres
LOCATION	SWC Lower Buckeye Road & Avondale Boulevard
PHYSICAL CHARACTERISTICS	Rectangular and relatively level surface
EXISTING LAND USE	Vacant
EXISTING ZONING	Planned Area Development (PAD)
ZONING HISTORY	Annexed 4/17/2006
DEVELOPMENT AGREEMENT	None

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	Planned Area Development (PAD) – Del Rio Ranch
EAST	Planned Area Development (PAD) – COUNTY (SFR detached)
SOUTH	Planned Area Development (PAD) – Diamond P Ranch (vacant)
WEST	Planned Area Development (PAD) – Diamond P Ranch (vacant)

<i>GENERAL PLAN</i>
The subject property is designated as <b>Commercial, Low Density Residential, and Medium Density Residential</b> on the General Plan Land Use Map.

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Littleton Elementary School District Tolleson Union High School District
ELEMENTARY SCHOOLS	Littleton Elementary School (K-8)
HIGH SCHOOL	La Joya Community High School

<i>STREETS</i>	
<b>Avondale Boulevard</b>	
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	2 vehicular lanes
Standard half street improvements	3 vehicular lanes, ½ median, bike lane, curb and gutter, attached sidewalk, street lights, plus deceleration lanes

<i>STREETS</i>	
<b>Lower Buckeye Road</b>	
Classification	Arterial
Existing half street ROW	55 feet
Standard half street ROW	55 feet
Existing half street improvements	1 vehicular lanes, ½ turning lane
Standard half street improvements	2 vehicular lanes, full median, bike lane, curb and gutter, attached sidewalk, street lights, plus deceleration lanes

<i>STREETS</i>	
<b>117<sup>th</sup> Avenue</b>	
Classification	Minor Collector
Existing ROW	70 feet <sup>1</sup>
Standard ROW	70 feet <sup>1</sup>
Existing half street improvements	None
Standard half street improvements	2 vehicular lanes, full median, bike lane, curb and gutter, attached sidewalk, street lights, plus deceleration lanes

<sup>1</sup> For the north half of 117<sup>th</sup> Avenue, the entire right-of-way was dedicated by this property. 117<sup>th</sup> Avenue transitions west on the southern half, where Diamond P Ranch is responsible for dedication of the entire right-of-way.

<i>UTILITIES</i>	
<p>There are existing 12” water lines in both Avondale Boulevard and Lower Buckeye Road that transition across the entire frontage of the property.</p> <p>There is an existing 30” sewer line in Avondale Boulevard that runs the length of the frontage of the property, and there is an existing 18” sewer line in Lower Buckeye Road that runs the length of the front of the property.</p>	

**ORDINANCE NO. 1999-906**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 67 ACRES LOCATED AT THE SOUTHWEST CORNER OF AVONDALE BOULEVARD AND LOWER BUCKEYE ROAD AS SHOWN IN FILENAME Z-05-18, REZONING SUCH PROPERTY FROM AGRICULTURAL (AG) TO PLANNED AREA DEVELOPMENT (PAD) AND IMPOSING CONDITIONS UPON SUCH CHANGE.

**WHEREAS**, the Council of the City of Avondale (the "City Council") desires to amend the City of Avondale Zoning Atlas (the "Zoning Atlas") pursuant to ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, all due and proper notices of public hearings on the intended amendment held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, the Commission held a public hearing on Thursday, July 20, 2006, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, the Commission recommended approval; and

**WHEREAS**, the City Council held a public hearing regarding the amendment to the Zoning Atlas on September 5, 2006.

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

**SECTION 1.** That ± 67 acres of real property generally located at the southwest corner of Avondale Boulevard and Lower Buckeye Road as shown in filename Z-05-18 (the "Property"), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned from Agricultural (AG) to Planned Area Development (PAD), subject to the following conditions:

1. Development shall be in substantial conformance with the development plan and narrative dated August 23, 2006 except as modified by these stipulations.

2. The required development standards shall be as shown in the narrative request dated August 23, 2006.
3. Uses for the subject property shall be as shown in the narrative request dated August 23, 2006 except that mini-storage shall be permitted.
4. All water rights on the property shall be conveyed to the City of Avondale prior to recordation of the final plat.
5. The developer shall be responsible for a quarter of the cost of the traffic signal to be located at the intersection of Avondale Boulevard and Lower Buckeye Road. Such payment shall be made to the City prior to recordation of the final plat.
6. All perimeter half-street improvements along Avondale Boulevard and Lower Buckeye Road shall be constructed in a single phase at the time of development.
7. Street improvements shall be required as follows, as determined by the City Engineer:

<i>Street</i>	<i>ROW Width</i>	<i>Required Improvements</i>
Avondale Boulevard	65' (half-street)	Paving, curb, gutter, detached sidewalk, street lights, and landscaping.
Lower Buckeye Road	55' (half-street) Additional 12' of ROW within 550 feet of the Avondale Blvd. Intersection	Paving, curb, gutter, detached sidewalks, street lights, landscaping. Deceleration lanes as deemed necessary by City Engineering at the time of master site plan approval.
117 <sup>th</sup> Avenue	60' (full-street)	Paving, curb, gutter, sidewalks, street lights, landscaping.

8. A new traffic study for the commercial center shall be submitted concurrent with the master site plan submittal.
9. Deceleration lanes shall be provided at all driveway connections to Avondale Boulevard and Lower Buckeye Road as determined by the City Engineer at the time of master site plan approval.
10. A bus bay and concrete pad shall be provided on Avondale Boulevard as determined by the City Engineer at the time of master site plan approval.
11. Shaded pedestrian walkways shall be provided from Avondale Boulevard and Lower Buckeye Road to buildings within the commercial retail center. One 24-inch box tree shall be planted along the walkway for each 20 linear feet of the walkway length. Canopies or other shade structures may be substituted for the landscape plantings as long as they are designed to match the overall site architectural theme.
12. The house plans shall be in substantial conformance to the style and character of the elevations provided in the PAD narrative.
13. All buildings, including those of franchise users, will be required to conform to the character and materials established by the Development Plan as finalized at the time of Master Site Plan approval for the commercial center.
14. All conditional uses shall be processed and evaluated in accordance with Section 108: *Conditional Use Permits* of the City of Avondale Zoning Ordinance.
15. All buildings shall use glass with low reflectivity.
16. Individual letters and custom cabinets for logos shall be used for commercial wall signs. Exposed raceways are prohibited.

17. Potential homebuyers shall be informed by CC&R's, affidavit, and posted notice in the model home sales office of the following:
  - a. The proximity of the future commercial uses to the north.
  - b. The location of Rudd substation and adjacent transmission lines.
  - c. The proximity to existing dairy farms and associated odors.
  - d. The future location of State Route 801.
  
18. Prior to final plat approval, the applicant shall obtain approval for Arizona Public Service (APS) for the use and landscaping of the transmission line corridor.
19. If irrigation has not ceased on the Pylman property site prior to the construction of the subdivision, the irrigation ditch shall be piped as determined by the City Engineer.
20. A landscape tract with a minimum width of 18 feet shall be provided along Avondale Boulevard and Lower Buckeye Road adjacent to the subdivision.
21. A 12-foot public use easement shall be dedicated for the public regional trail as part of the final plat.
22. Lot 48 shall be deleted.
23. Homebuilders shall inform prospective homebuyers by affidavit of the proximity of Phoenix International Raceway (PIR) and the nature of the periodic events that occur there. A map showing the location of PIR in relation to the subdivision, and the primary routes used by event traffic, shall be prominently displayed in the model home sales office. A note stating that the subdivision is located within three (3) miles of PIR shall be shown on the final plat and in the CC&R's recorded for the subdivision.

**SECTION 2.** That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

**PASSED AND ADOPTED** by the Council of the City of Avondale, September 5, 2006.

  
 Marie Lopez-Rogers, Mayor

ATTEST:

  
 Lynda M. Farris, City Clerk

APPROVED:

  
 Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
ORDINANCE NO. 1999-906

[Map and Legal Description]

See following pages.

SOUTHWEST CORNER OF AVONDALE BLVD & LOWER BUCKEYE ROAD  
GROSS PROPERTY  
LEGAL DESCRIPTION

That portion of the Northeast quarter of Section 24, Township 1 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

**BEGINNING** at a brass cap in hand hole accepted as the Northeast corner of said Section 24 from which a brass cap in hand hole accepted as the North quarter corner thereof bears South 89 degrees 43 minutes 31 seconds West a distance of 2653.33 feet;

Thence along the east line of said Northeast quarter, South 00 degrees 15 minutes 41 seconds East a distance of 2644.45 feet to a brass in hand hole accepted as the East quarter corner of said Section 24;

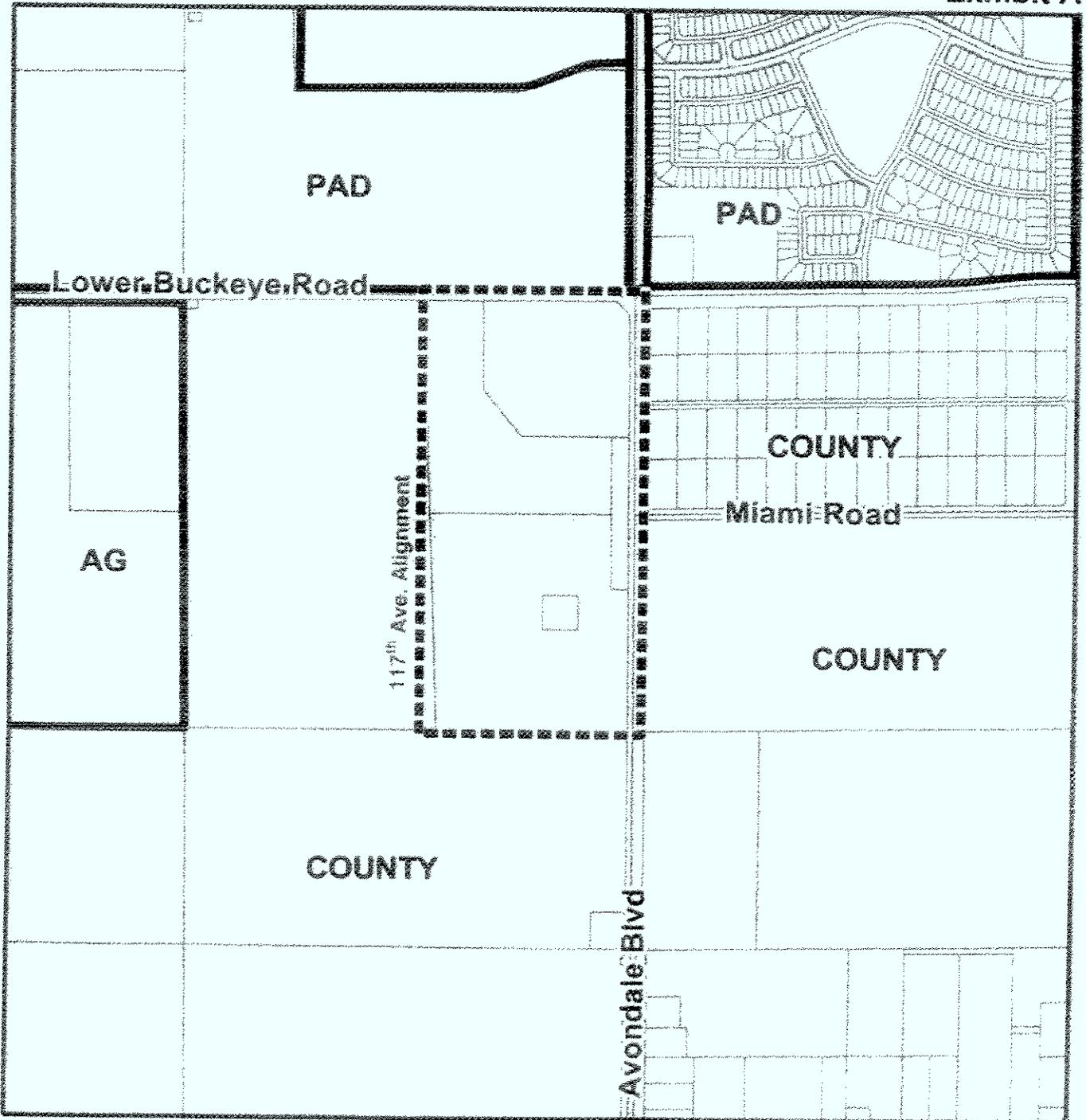
Thence along the south line of said Northeast quarter, North 89 degrees 57 minutes 01 seconds West a distance of 1149.13 feet;

Thence leaving said south line, North 02 degrees 06 minutes 32 seconds West a distance of 2639.30 feet to the north line of said Northeast quarter;

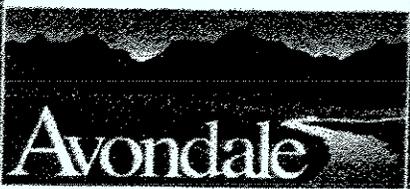
Thence along said north line, North 89 degrees 43 minutes 31 seconds East a distance of 1234.20 feet to the **POINT OF BEGINNING**.

The above described parcel contains a computed area of 3,147,265 sq. ft. (72.2513 acres) more or less and being subject to any easements, restrictions, rights of way of record or otherwise.

Prepared by: CMX L.L.C.  
7740 N. 16th Street, Suite 100  
Phoenix, AZ 85020  
Project No. 7204  
December 14, 2004



**Z-05-18 - Fleming Farms**  
Zoning Vicinity Map



 Subject Property



# FLEMING FARMS

## Planned Area Development

**SWC of AVONDALE BOULEVARD & LOWER BUCKEYE ROAD  
AVONDALE, ARIZONA**

### CITY COUNCIL

Approved  
 Denied

Approved with  
Conditions

9/5/06  
Date

**Prepared by:**

**EVERGREEN - AVONDALE & L. BUCKEYE, L.L.C.**

Amended: August 18, 2006  
Amended: July 14, 2006  
Amended: June 16, 2006  
Amended: March 27, 2006  
Submitted: October 17, 2005

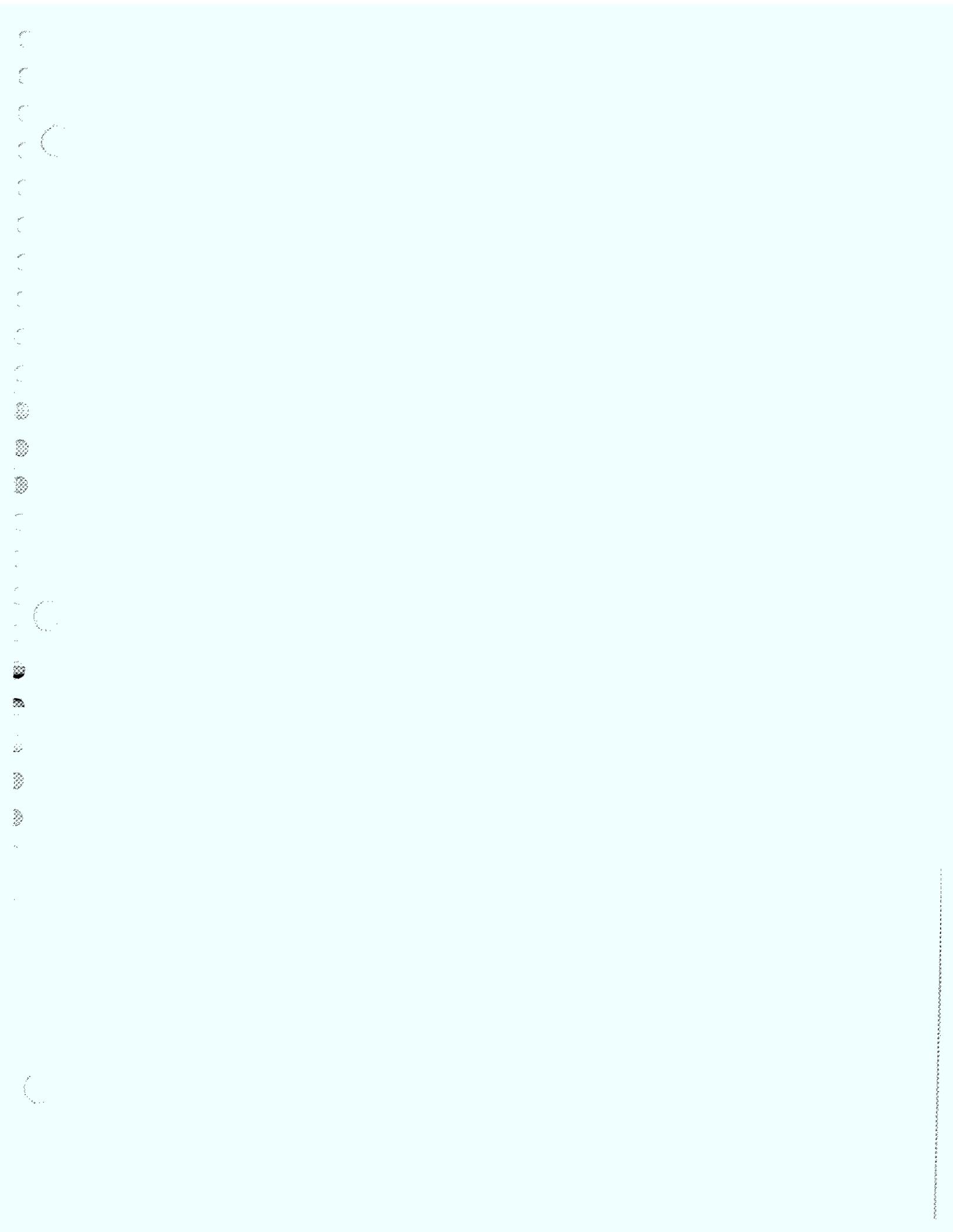
PLANNED AREA DEVELOPMENT  
CITY OF AVONDALE  
AUG 18 2006  
2-05-18

**FLEMING FARMS**  
Planned Area Development  
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**FLEMING FARMS**  
Planned Area Development  
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# FLEMING FARMS

## Planned Area Development

### 1. Overview

#### Introduction

Evergreen - Avondale & L. Buckeye, L.L.C. ("Evergreen") is the developer of approximately 67 net acres (the "Site" and/or "Fleming Farms")<sup>1</sup> of real property located at the southwest corner of Avondale Boulevard and Lower Buckeye Road in Avondale, Arizona. Evergreen seeks Planned Area Development ("PAD") approval for approximately 17 net acres of Commercial and approximately 50 net acres of Single-Family Residential with a density of 2.96 du's/acre.

#### Site Location and Surroundings

The Site is shown on the Vicinity Map (Tab 1) and the Surrounding Land Uses Exhibit (Tab 2). The Site is bounded by Lower Buckeye Road on the north and Avondale Boulevard on the east. A power line corridor is located at the south boundary of the Site. Across Lower Buckeye Road to the north is zoned for commercial use. West of the Site and south of the power line corridor are planned for residential development. The Site is in agricultural use, including a horse farm. There are existing residential uses to the east of the Site. Other surrounding uses are agricultural.

#### General Plan and Zoning History

The City's adopted General Plan designates the Site for Commercial and Single-Family Residential Uses. The General Plan shows a small portion of the Site along Lower Buckeye Road, adjacent to the Commercial corner, planned as Low Density Residential (1 to 2.5 du/acre), and the balance of the Site planned as Medium Density Residential (2.5 to 4 du/acre) as shown on the General Plan Exhibit (Tab 3). As shown on the Existing Zoning Exhibit (Tab 3), the Site is currently zoned Agricultural (AG) in the City of Avondale. There are no applicable area plans. The PAD zoning proposed for the Site, as shown on the Proposed Zoning Exhibit (Tab 3) is consistent with the General Plan and surrounding land uses.

---

<sup>1</sup> The Site is approximately 69 gross acres and approximately 67 net acres. Net acreage is calculated by deducting the area for arterial streets from the gross acreage.

## 2. PAD Description

### Proposed Land Uses - Development Plan and Program

Evergreen plans to develop approximately 17 net acres of the Site at the southwest corner of Avondale Boulevard and Lower Buckeye Road with commercial uses and the balance of approximately 50 net acres as a single family residential neighborhood. Fleming Farms will have a consistent overall theme for the Commercial and Residential components (architecture, landscaping, perimeter walls, signage, etc.) which will be similar to other high-quality developments in Avondale.

### Residential Component

As set forth on the Conceptual Residential Lotting Exhibit (Tab 4) and the Residential Site Data table below, Fleming Farms will feature three lot sizes, ranging from 7,245 to 8,395 square feet planned for 147 dwelling units with an overall density of 2.96 du's/acre.

	Net Area (acres)	Minimum Lot Size	Minimum Lot Area (s.f.)	Number of Lots	Percent of Total Lots
		63'x115'	7245	57	38.8%
		68'x115'	7820	57	38.8%
		73'x115'	8395	33	22.4%
Total	50			147	100%

Fleming Farms responds to the existing and future needs of the community by providing new residential units characterized by high quality, diverse housing choices, and significant open space and amenities. Fleming Farms will consist of traditional-style neighborhoods and architectural styles (Monterey; Territorial Ranch; and Spanish Colonial). The architectural character of the community will lean towards simple, strong, elegant designs. It is expected that major building materials will include concrete tile and parapet roofs, earthen paint tones, and other compatible materials. Durability and ease of maintenance are a priority.

### Compliance with General Plan

Fleming Farms has been planned with an overall density of 2.96 du/acre. Fleming Farms has been designed in recognition of the Objectives of the Elements of the Avondale General Plan, including for example:

- Land Use Goal 1(B)/Housing Goal 2(B): Fleming Farms will feature three lot sizes, ranging from 7,245 to 8,395 square feet, in compliance with the City's minimum lot width ordinance. The lots will permit the construction of a variety of site plans and orientations, and when combined with the enhanced elevations (see Residential Guidelines Exhibit (Tab 12) for examples) and open space amenities, the overall community will be attractive and desirable.
- Land Use Goal 2(B): The overall density of Fleming Farms (2.96 du/ acre) is less than the other approved subdivisions in the vicinity and less than the majority of all projects north of Lower Buckeye Road.
- Housing Goal 2(B): Fleming Farms will be attractive to home buyers looking for "move-up" opportunities because of the large lots, plus the attractive design styles outlined in the Residential Design Guidelines Exhibit (Tab 12) (Monterey, Territorial Ranch, and Spanish Colonial), give the community a distinct uniqueness lacking in many standard subdivisions.
- Housing Goal 2(C): Within this PAD, both residential and commercial design guidelines and standards have been established. These design guidelines and standards ensure that this development will meet or exceed the expectations of the Avondale Zoning Ordinance. Both the residential and commercial components will utilize complimentary architecture, landscaping, and signage.
- Water Resource Goal 2(B): As part of the approval process, Fleming Farms will transfer applicable grandfathered irrigation water rights to the City of Avondale.
- Circulation Goal 3(B): Fleming Farms will provide an extensive trails system, which will connect the neighborhoods, recreational facilities, and commercial areas.
- Circulation Goal 4(A): Fleming Farms will pay its fair share of transportation costs via the dedication of additional right-of-way for bus stops, turning lanes, and the construction of half-width street improvements on both arterial streets.

Given the challenges of the Site's location along the Commercial and Employment corridor of Avondale Boulevard, and between the Lower Buckeye Road arterial and a power line easement, the proposed density is both justified and well within the General Plan. Fleming Farms has met these challenges with a community greatly exceeding entry level housing. Justification for density above the target density (2.5 du's/acre) is merited by the inclusion of lot size variation, enhanced landscaping and neighborhood theming, open space amenities for teens and tots, and attractive elevation designs and styles.

These attributes combine to provide a varied streetscape within the overall density contemplated by the General Plan.

### Landscaping, Open Space, and Amenities

A sense of community identity is achieved upon arrival from Avondale Boulevard. The two entries are depicted on the Conceptual Residential Lotting Exhibit (Tab 4) and the Conceptual Landscape/Open Space Plan (Tab 5). Landscape and Open Space Vignettes are provided at (Tab 6). Abundant landscaping and distinctive monumentation frame each of the entries and signify the special community within the perimeter walls. The Wall Plan and Hardscape Details (with entry monumentation) are provided at (Tab 7). Recreational opportunities abound within the well-designed park and open space system.

Staggers and visual breaks in the perimeter theme walls maximize the visual interest. The extensive open space throughout the neighborhood provides 9.46 acres of landscaped areas. Further, 6.36 acres are considered active open space per the Zoning Ordinance's requirement for common open space. The location of the active open space acreage is depicted on the Active Open Space Exhibit at (Tab 5). A noteworthy 19% of the total residential development area is composed of parks, perimeter landscaping, and landscape tracts and trails. This design allows for easy access to the park by street, sidewalk, or trail from all residences in the community. The substantial open space component in the south portion of the Site makes efficient use of the power line easement separating the Site from the residential uses proposed to the south. The active recreational activities (lot lots, basketball courts and ramadas) and the access to them are all located in areas that will not be impacted by storm water runoff nor in areas used for water retention.

The substantial open space enhances the quality of life for community residents and provides numerous opportunities for passive and active recreation which is additionally encouraged by the significant amenities throughout the neighborhood and pocket parks. The amenities (as depicted on the Conceptual Landscape/Open Space Plan and Landscape and Open Space Vignettes at (Tabs 5 and 6) include ramadas and barbecue areas, a 1.77 acre centralized park with a tot lot with activities for ages 5-12 and a half basketball court for teens, a 3.61 acre linear park with a tot lot area with activities for ages 2-5, a multi-use trail along the power line corridor, trellises as neighborhood identification, open space with turf areas, meandering sidewalks along open spaces, and landscaped side yards on corner lots with trees.

### Circulation

Fleming Farms Street Circulation Plan is provided at Tab 8. The Traffic Impact Study prepared for Fleming Farms states that roadways are appropriately sized and the driveways appropriately sized and located to serve the Site without conflict to adjacent properties. Primary access to the Site will be via Avondale Boulevard and the north/south collector located at the western property line. Within the residential subdivisions numerous curves, knuckles, and cul-de-sacs effectively convey traffic while

maximizing safety and the aesthetics of open space features. The streets have also been designed to provide good views of the landscaped open spaces as residents drive through their neighborhoods to promote safety and visibility throughout the community.<sup>2</sup> The trail system across the Site, as depicted on the Master Bicycle and Pedestrian Trails Plan set forth at Tab 9, promotes connectivity with the commercial parcel at the intersection of Avondale Boulevard and Lower Buckeye Road and with future residential development anticipated to the west. A Streets & Trails Cross-Sections exhibit is provided at Tab 10.

The Summary and Recommendations portion of the Traffic Impact Study is summarized below:

- The access points for the proposed residential development should adequately serve the site. Avondale Boulevard and Lower Buckeye Road will adequately accommodate traffic from the site.
- It is recommended that the Avondale Boulevard half street right-of-way is 65' to match its proposed future cross section.
- The Minor Collector road on the west side of the site is proposed to be a 2-lane roadway on 60' of right-of-way.
- The residential connection to the Minor Collector road, located at the northwest corner of the development, will adequately serve as full access.
- The northern residential connection to Avondale Boulevard, which aligns with Miami Road, will adequately serve as full access with a median break on Avondale Boulevard.
- The southern residential connection to Avondale Boulevard, which aligns with the proposed *Shadow Ridge* access point, will adequately serve as full access with a median break on Avondale Boulevard.
- It is recommended that the right-of-way for Lower Buckeye Road shall be 55' plus an additional 12' for the proposed dual left turn lane and right turn lane. This additional right-of-way has been provided for a distance of 550' from the intersection.
- Potential full access locations to serve the commercial development are located 660' west and south of the intersection of Avondale Boulevard and Lower Buckeye Road.
- Further analysis of the commercial component will be submitted with the Master Site Plan, including recommendations for locations and sizing of deceleration lanes.

Additionally, upon construction of the off-site improvements, there will be a bus bay provided adjacent to the commercial development along Avondale Boulevard, and Fleming Farms will be responsible for one-quarter of the cost to construct the traffic signal at Avondale Boulevard and Lower Buckeye Road, which shall be paid prior to recordation of the final plat. The timing of the signalization of Avondale Boulevard and Lower Buckeye Road is dependent on the development of a number of adjacent projects. The

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<sup>2</sup> Floor plans on lots at any "T" intersection will be oriented so that lights from any approaching vehicles will not be perpendicular to any front windows.

City of Avondale will be responsible for the actual construction of the traffic signal at such time as the signal is warranted.

Commercial Component

The Conceptual Commercial Elevations exhibit (with color and materials) for the commercial component is set forth at Tab 11. The conceptual elevations are provided to demonstrate the character, form and architectural theme of the commercial component. The concept is to provide a Southwestern Village design through the integration of regional colors and materials such as, but not limited to tile roofs, ornamental windows, metal sidings, exposed / painted (regional earth tones) tube steel beams and columns, stucco painted, earthen tone stone columns and wainscoting, and stained concrete masonry unit walls. Patterned paving at the entry drives will signify the entry of the Village Market concept. The architectural design includes faux second story window elements to enhance visual interest. The orientation of the Shops will create shade along the pedestrian walkway in front of the stores with landscaping, trellised courtyard and amenities such as benches, potted plants, and bicycle stands to provide a pedestrian friendly experience for shoppers, enhancing the adjacent residential neighborhood.

### 3. Development Standards

#### *Residential Development Standards*

Development standards for the residential component of Fleming Farms meet or exceed those contained in the R1-6 Zoning District and are set forth in the table below entitled Residential Development Standards.

<b>RESIDENTIAL DEVELOPMENT STANDARDS</b>			
Standard	Fleming Farms PAD		
	63'x 115'	68'x115'	73' x 115'
Minimum Net Site Area	7245 sq.ft.	7820 sq.ft.	8395 sq.ft.
Max. Density (du/acre)	2.96		
Minimum Lot Width	63'		
Minimum Lot Depth	115'		
Maximum Building Height	30'		
Maximum Building Coverage	50%		
Minimum Setbacks			
Front Yard (1)(2)(3)	18'/21'		
Total Side Yard	18'		
Minimum Side Yard	8'/10'		
Rear Yard	15'		
Street Side (4)	8'		

Notes:

- (1) Front yard setbacks may be reduced by 5 feet in accordance with Avondale Zoning Ordinance Section 202(H)(3)(d) where side entry garages are used or where garages are recessed a minimum of five (5) feet behind the living areas of the units.
- (2) Encroachments into the front setbacks up to 5 feet shall be permitted for front porches.
- (3) Front setbacks shall be staggered at 18'/21' with no more than two adjacent homes having the same setback.
- (4) Due to the inclusion of landscaped tracts adjacent to each corner lot, only traditional side yard setbacks apply.

Fleming Farms complies with the City of Avondale residential development standards and incorporates the following additional development standards which exceed the City requirements:

- A significant portion of the Site (19%) is reserved for open space, approximately two times that required by the City development standards.
- Unique, enhanced entry features are provided at each of the three entrances to Fleming Farms. These entry features are shown on Tab 6.
- Enhanced theme walls are provided along Avondale Boulevard and Lower Buckeye Road and are detailed on Tab 7. These theme walls, at 8' in height, exceed the City standard of 6' and incorporate diverse materials and provide additional visual relief than that found in typical subdivision walls.
- Avondale's signature "Southern Live Oak" street trees will be incorporated along Avondale Boulevard.

#### *Residential Uses*

For the residential component of Fleming Farms, the permitted and conditional uses will be those permitted in Section 2 of the City of Avondale Zoning Ordinance.

## Commercial Development Standards

The Commercial component of Fleming Farms will consist of a neighborhood serving center that will provide retail, service, or office uses to support the growing residential needs of the nearby communities. The Commercial Development Standards (e.g. setbacks, height, lot coverage, etc.) shall be as set forth in this booklet, including those items addressed in the following table entitled Commercial Development Standards.

COMMERCIAL DEVELOPMENT STANDARDS	
Standard	Fleming Farms PAD
Minimum Lot Width	NA
Minimum Site Depth	NA
Maximum Building Height (1)	30'
Maximum Lot Coverage	NA
Minimum Setbacks	
Front	20'
Interior	NA
Street Side	20'
Minimum Setback from Residential (2)	50'

Notes:

- (1) The maximum building height for non-occupied architectural embellishments to create visual interest within commercial districts, such as towers, mechanical screening, pitched roof elements and parapets, may not exceed 40 feet.
- (2) For two-story buildings, the minimum setback for any two story element may not be less than 75 feet.

### Commercial Uses

#### A. Permitted Uses

The uses permitted in this district are as follows:

- Retail Sales of new merchandise within an enclosed building.
- Food stores, drug stores, and variety stores.
- Specialty stores such as candy shops, tobacco shops, card shops, flower shops, gift shops, hardware stores, and liquor stores.
- Photographic developing and printing studio, for retail use only.
- Clothing, shoe, jewelry, and similar apparel stores.
- Small appliances and electronics stores.

- Bicycles, musical instruments, sporting goods, and similar stores.
- Home furnishings and major appliance stores, excluding servicing and repair.
- Restaurants, coffee shops, and delis.
- Banks and other financial institutions.
- Offices including professional, medical, administrative, and business offices.
- Employment agencies.
- Personal services such as barber shops, beauty shops, nail salons, tanning salons, and day spas (which provide a variety of personal services such as hair styling, manicures and pedicures, makeup, facials, tanning, massage, and other related services) but excluding sexually oriented businesses and tattoo parlors.
- Tailor shops, shoe repair and watch repair.
- Ticket and travel agencies.
- Automatic Teller Machine (ATM).

**B. Uses Subject to Conditions**

The following additional uses are permitted within Fleming Farms, subject to the listed conditions:

- Fitness centers, dance studios, aerobics classes and similar uses are limited to a maximum of four thousand (4,000) square feet of floor area.
- Dry cleaning and laundry services are limited to pick up/drop off stations only (no on premises plants, bulk cleaning or dying).
- Indoor recreational facilities including video arcades play lands, and similar uses are limited to a maximum floor area of four thousand (4,000) square feet.
- Drive-thru uses shall be designed such that the drive-thru window shall not face an arterial street or a residentially zoned property. The drive-thru window and adjacent lanes shall include a cover designed as an integrated part of the building.

**C. Uses Subject to Conditional Use Permit**

The following additional uses may be allowed in Fleming Farms, subject to a conditional use permit:

- Business hours which extend beyond the permitted hours of 6 a.m. to Midnight.
- Retail Uses in excess of 100,000 s.f.
- Churches.
- Child and/or adult day care centers.
- Convenience stores and gasoline stations.
- Restaurants with live entertainment (music performed by more than one musician) and dancing (not including adult entertainment).

- Minor auto repair and maintenance limited to lubrication, tire sales, windshield repair, car washing and polishing, and minor dent repair (not including painting or major body work).
- Carwashes.
- Auto parts and supply stores.
- Car rental with onsite pick-up and drop-off.
- Massage salons.
- Mini storage warehouses.
- Drive-thru Restaurants

**D. Prohibited Uses**

The following uses are prohibited:

- Check cashing, bondsman, pawn shops, plasma centers, thrift stores.
- Day labor centers.
- Outdoor storage.
- Sexually oriented businesses.
- Shooting Ranges.
- Any uses not expressly permitted herein.

**4. Residential Design Guidelines**

The residential design at Fleming Farms is envisioned to provide a diverse traditional neighborhood, being an asset to both homeowners and the community. The design and planning concepts outlined in the Residential Design Guidelines Exhibit (Tab 12) reinforce a sustainable, quality neighborhood and are intended to outline the quality standards that the residential architecture will play in realizing this vision.

**5. Commercial Design Guidelines**

The design guidelines for the commercial land use located at the southwest corner of Avondale Boulevard and Lower Buckeye Road are outlined in the Commercial Design Guidelines Exhibit (Tab 11).

**6. Miscellaneous**

**A. Signage**

The Signage at Fleming Farms will comply with the City of Avondale Zoning Ordinance and Subdivision Regulations. The architectural style of the residential and commercial monument signage shall be complementary. A Comprehensive Sign Plan will be reviewed and approved with the Master Site Plan.

## B. Water, Wastewater, and Utilities

Water service for Fleming Farms will be provided by the City of Avondale through an existing 12" water line in Lower Buckeye Road and the construction of a new 16" line in Avondale Boulevard. Based on discussions with City staff, Fleming Farms will not require any additional improvements to the existing water system, except that the City may participate in over-sizing the 16" water line in Avondale Boulevard to create a 24" water line.

Wastewater service for Fleming Farms will be provided by the City by an existing 30" sewer line in Avondale Boulevard. Based on the City of Avondale Master Wastewater Study and further confirmation from City staff, there is adequate capacity in the adjacent 30" sewer line and further downstream lines to serve this site.

Southwest Gas has nearby gas facilities available to serve the Site. Telephone service to this area is provided by Qwest Communications. Cox Communications provides cable television service to this area. The Site is within the Salt River Project service area. Information from Southwest Gas, Qwest, Cox, and SRP indicate all have facilities available to serve the Site. The Utilities Exhibit (Tab 13) sets forth locations for the existing and proposed utilities.

## C. Grading and Drainage

The Site naturally slopes at a constant grade towards the southwest, as depicted on the Topography Exhibit (Tab 14). The result of the Flood Delineation Study for this site is shown on the Maricopa County Flood Insurance Rate Map (FIRM) No. 04013C2095E, revised July 19, 2001. The property is in Zone "X." The City of Avondale requires retention basins be designed to retain the runoff from the 100-year, 2-hour storm event. For retention/detention basins with ponding depths less than or equal to three feet, side slopes will be planned no steeper than 4:1. Based on the size of the Site, the volume of storm water generated will be incorporated into the residential lotting layout and in the commercial site plan. Underground retention will be provided for the commercial parcel if and to the extent that the commercial parcel's retention volume cannot be provided in surface retention basins within the commercial parcel. Per discussions with Arizona Public Service, it will be acceptable to retain stormwater for the Site along the southern property line within the existing APS overhead electrical easement.

## D. Schools

Fleming Farms is located within the Tolleson Union High School District and the Littleton Elementary School District. Owner representatives have met with superintendents of both Districts. Evergreen will mitigate the effects of Fleming Farms on the Tolleson Union High School District by providing a financial donation. The Littleton district has confirmed that provision of the Hillcrest school site satisfied the impacts for both Hillcrest and Fleming Farms and that no financial contribution is warranted. Copies of letters from the Littleton Elementary School District, dated August 17, 2005 and from

the Tolleson Union High School District dated December 20, 2005 indicating their respective approval of the land use proposed in this PAD are provided at Tab 15.

#### E. Proposed Residential/Commercial Development Approval Process

This PAD narrative and Proposed Land Use Development Map establishes the scale, general circulation and character of the development. The character will be set by the materials/colors and architectural elements defined in the development standards and design guidelines and shown on the conceptual elevations.

Residential development will require:

- Preliminary Plat review by both the Planning Commission and City Council with ultimate approval from the City Council.
- Final Plat review and approval from the City Council.
- House Plans to be reviewed administratively for conformance with the residential design guidelines approved within this PAD.

Commercial development will require:

- Master Site Plan and Comprehensive Sign Plan review by both the Planning Commission and the City Council with ultimate approval from the City Council.
- Individual Site Plans (final plans for individual tenants) to be reviewed administratively for conformance with the Master Site Plan and this PAD.

#### F. Phasing

Development of the residential and commercial portions of the Site is expected to be phased in accordance with the market demand. If the project is phased, offsite improvements along Avondale Boulevard and Lower Buckeye Road will be constructed with the first phase of development. The Minor Collector along the western boundary of the Site will be constructed concurrently with the residential phase of the project.

The implementation of this phasing plan will be accomplished by following the Master Site Plan and subdivision processes detailed in the City of Avondale Zoning Ordinance and Subdivision Regulations. While it is anticipated that the entire commercial parcel will be developed simultaneously, it is possible that construction of the commercial parcel will occur in phases.

#### G. Homeowners' Association

A homeowners' association ("HOA") is planned for the residential component of Fleming Farms. All community open space, amenities, landscape tracts, and right-of-way landscaping within the residential component will be owned and maintained by the HOA.

#### H. Neighborhood Outreach

A summary of neighborhood communications has been provided to City Staff.

#### I. Adjacent Dairy Notification Plan

The property to the west of Fleming Farms is currently an operating dairy. The owner of the dairy has purchased another facility and has moved the majority of the animals to that facility. The property owner has been involved in litigation with a potential buyer since April, 2005. In discussions with the adjacent property owner, he indicated that a settlement has been reached and that he would be marketing the property for sale to residential developers beginning in June, 2006 and that it is his intent to relocate the remaining cattle from the dairy following the sale of the property.

In the event the dairy has not been relocated prior to the recordation of the Final Plat for Fleming Farms, it shall be a requirement that 1) a statement be placed on the Final Plat indicating that there is a dairy adjacent to the Site and 2) the CC&R's include a provision declaring that the Site is adjacent to an operating dairy. Further, in the event that the dairy has not been relocated prior to the commencement of sales for homes located in Fleming Farms, homebuyers shall be required to sign an affidavit acknowledging that they are aware that the Site is adjacent to an operating dairy.

## **7. Development Team**

### **Owners**

Elvin E. and Joan Fleming  
P.O. Box 299  
Cashion, AZ 85329

Evergreen - Avondale & L. Buckeye, L.L.C.  
2390 E. Camelback Rd., Suite 410  
Phoenix, Arizona 85016  
Attn.: Matt Butcher  
Phone: (602) 808-8600  
Fax: (602) 808-9100

### **Developer**

Evergreen - Avondale & L. Buckeye, L.L.C.  
2390 E. Camelback Rd., Suite 410  
Phoenix, Arizona 85016  
Attn.: Matt Butcher  
Phone: (602) 808-8600  
Fax: (602) 808-9100

### **Civil Engineering**

CMX  
7740 N. 16<sup>th</sup> St., Suite 100  
Phoenix, Arizona 85020  
Attn.: Shelby Duplessis  
Phone: (602) 567-1900  
Fax: (602) 567-1901

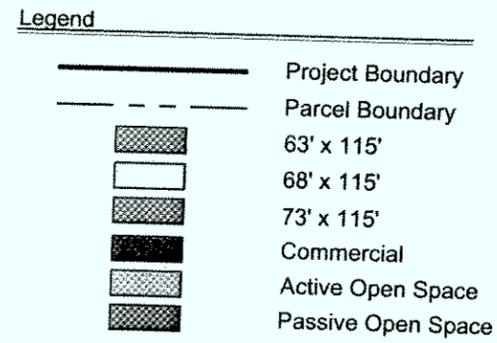
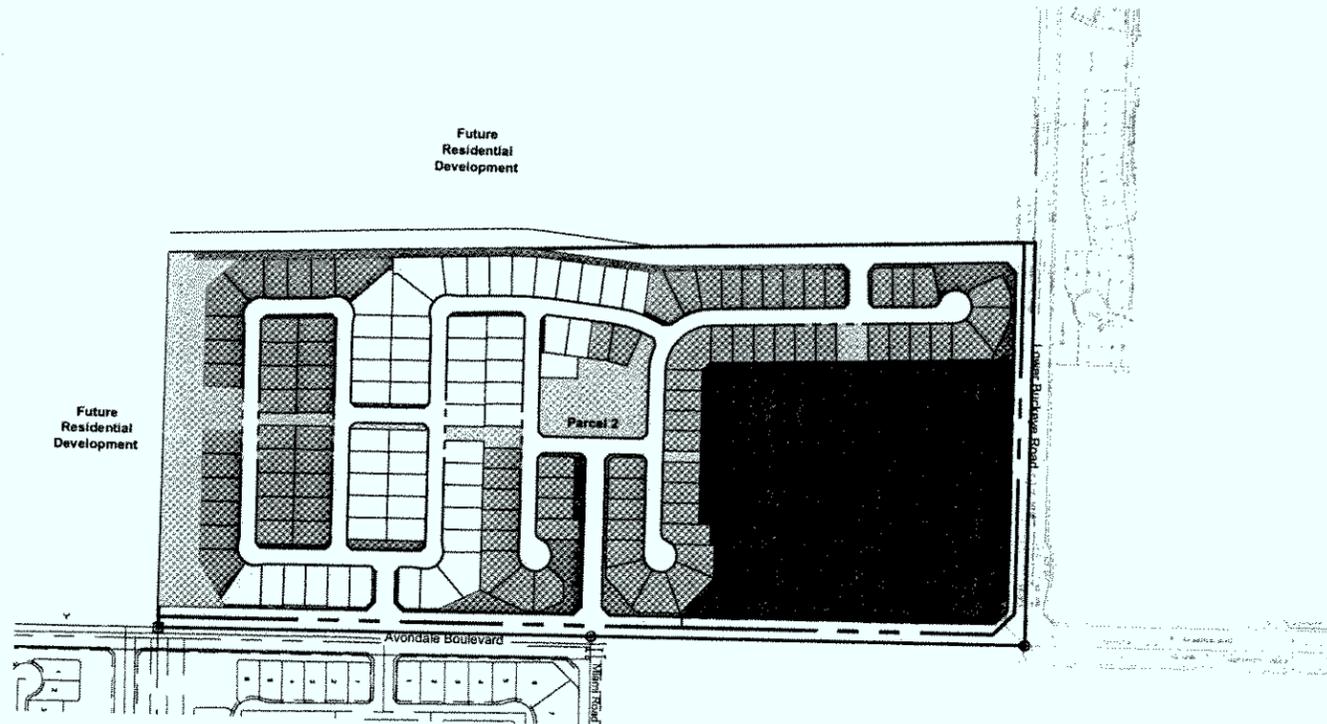
### **Zoning**

Burch & Cracchiolo, P.A.  
702 East Osborn Road, Suite 200  
Phoenix, Arizona 85014  
Attn.: Ed Bull  
Phone: (602) 234-9913  
Fax: (602) 240-3823

## **8. Conclusion**

This Fleming Farms PAD is in conformance with the City's General Plan, provides a variety of high-quality residential options, and provides commercial uses to serve surrounding residential communities. Approval is requested.

**Evergreen - Avondale & L. Buckeye, L.L.C.**



**Residential Site Data**

Single-Family Lot Mix Percentages

Lot Type	Unit Count	Percentages
63' x 115'	57	38.8%
68' x 115'	57	38.8%
73' x 115'	33	22.4%
<b>Totals:</b>	<b>147</b>	<b>100%</b>

Site Density = 2.96 du/ac

# Fleming Farms

Avondale, Arizona

## Conceptual Residential Lotting Exhibit



CMX Project Number: 7204  
 Project Manager: S. Duplessis  
 L:\7204\7204\Fleming Farms\Exhibits\Lotting\PAD\01-Submittal\204-Conceptual Residential Lotting Exhibit.dwg  
 Aug 08, 2006 6:01pm



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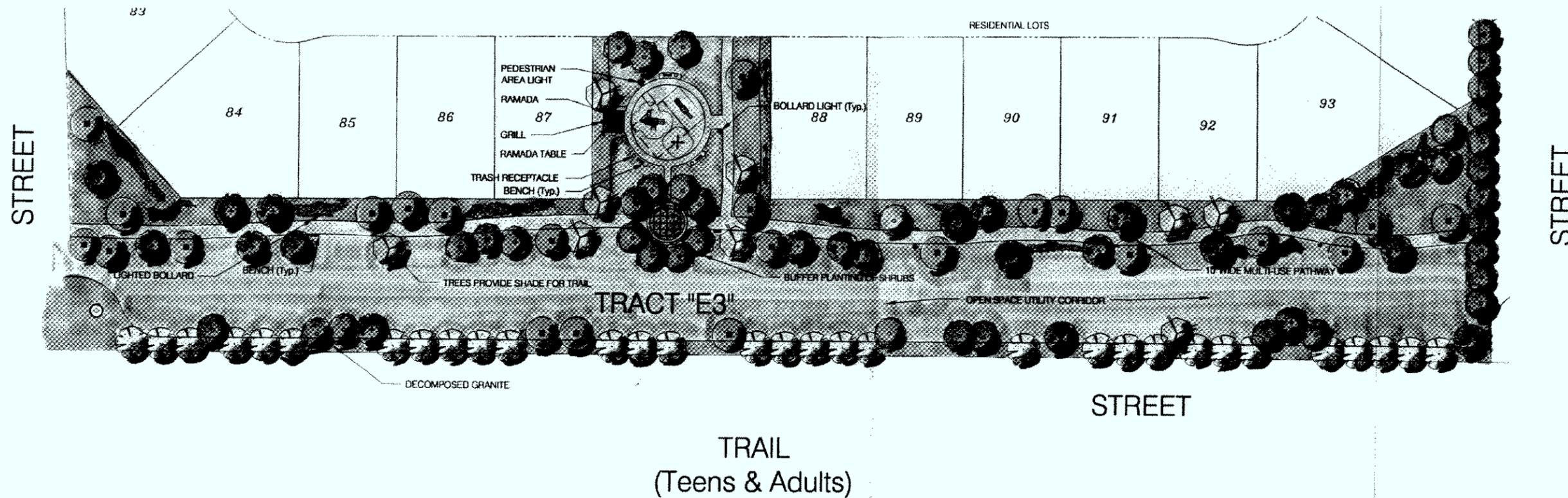




# Fleming Farms

Avondale, Arizona  
Planned Area Development District

## CONCEPTUAL LANDSCAPE ACTIVE AREA/OPEN SPACE



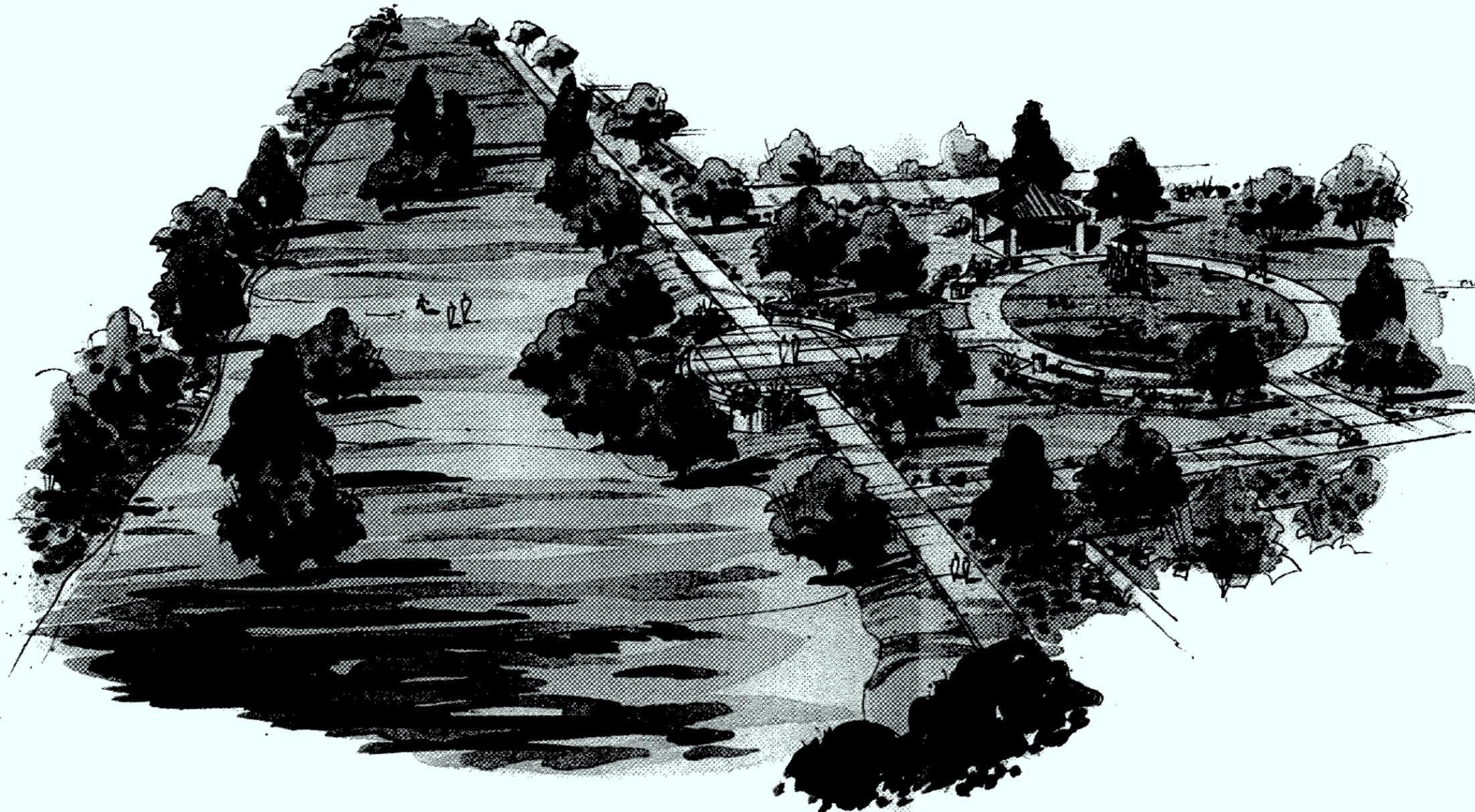
### PLANT LEGEND

SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE
<b>TREES</b>														
	ACACIA FARNESIANA SWEET ACACIA	24" BOX		BOUGAINVILLEA 'B. KARST'	5 GAL		YUCCA DELTOIDEA GOLDEN EYE	5 GAL		AGAVE ATTENUATA	5 GAL		ACACIA REDOLENS DESERT CARPET ACACIA	5 GAL
	CERCIDIUM PRAECOX PALM BEAR	15 GAL		CALLISTEMON V. LITTLEJOHNS DWARF BOTTLE BRUSH	5 GAL		AGAVE AMERICANA VAR. MEDIOXICA	5 GAL		BACCHARIS HYBRID STARRY	5 GAL		CHRYSANTHA MEXICANA DABWANTA	1 GAL
	DALBERGIA SISSEO SISSOO TREE	24" BOX		CALLIANDRA ERIOPHYLLA PINK FAIRY DUSTER	5 GAL		EUPHORBIA BIGLANDULOSA GOPHER PLANT	5 GAL		CONVOLVULUS ONEIDUM BUSH MORNING GLORY	5 GAL		DALEA GREGGII TRAILING INDIGO BUSH	3 GAL
	CERCOPIS LINEARIS DESERT WILLOW	24" BOX		CALLISTEMON V. LITTLEJOHNS DWARF BOTTLE BRUSH	5 GAL		HESPERALOE PARVIFLORA RED YUCCA	5 GAL		LANTANA SP.	1 GAL		MYOPORUM PARVIFLORUM DWARF MYOPORUM	1 GAL
	PERSEA CHINENSIS CHINESE PRINCE	24" BOX		DALEA PRUTESCENS BLACK DALEA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		ROSMARINUS OFFICINALIS TRAILING ROSEMARY	5 GAL		VERBENA PERUVIANA PERUVIAN VERBENA	1 GAL
	PROSOPIS JULIFLORA CHILIAN MESQUITE	24" BOX		DODONAEA VISCOSA PURPLE HORNBUSH	3 GAL		YUCCA RECURVIFOLIA SPINELESS YUCCA	5 GAL		TURF CYNODON DACTYLON CELEBRATION				
	QUERCUS AGRIFOLIA VEERANCE LIVE OAK	24" BOX		HYPTIS HORYI DESERT LAVENDER	5 GAL		TECOMA STANS VAR. ANGUSTIFOLIA ARIZONA YELLOW BELLS	5 GAL		PERENNIALS				
	SALIX PYRAMIDALIS SUNSHINE BIRCH	24" BOX		VIGUIERA DELTOIDEA GOLDEN EYE	5 GAL		HESPERALOE PARVIFLORA RED YUCCA	5 GAL		PERENNIALS				
	THUJA OCCIDENTALIS GREEN GLOBE	24" BOX		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		PERENNIALS				
	THUJA OCCIDENTALIS GREEN GLOBE	24" BOX		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		PERENNIALS				
	THUJA OCCIDENTALIS GREEN GLOBE	24" BOX		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		PERENNIALS				
	THUJA OCCIDENTALIS GREEN GLOBE	24" BOX		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		PERENNIALS				
	THUJA OCCIDENTALIS GREEN GLOBE	24" BOX		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		PERENNIALS				
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	THUJA OCCIDENTALIS GREEN GLOBE	24" BOX		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		MUHLENBERGIA CAPULARIS REGAL WIST	5 GAL		PERENNIALS				
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	THUJA OCCIDENTAL													

# Fleming Farms

Avondale, Arizona  
Planned Area Development District

PERSPECTIVE VIEW - ACTIVE OPEN SPACE



Project #: 50063-09  
August 2006

Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

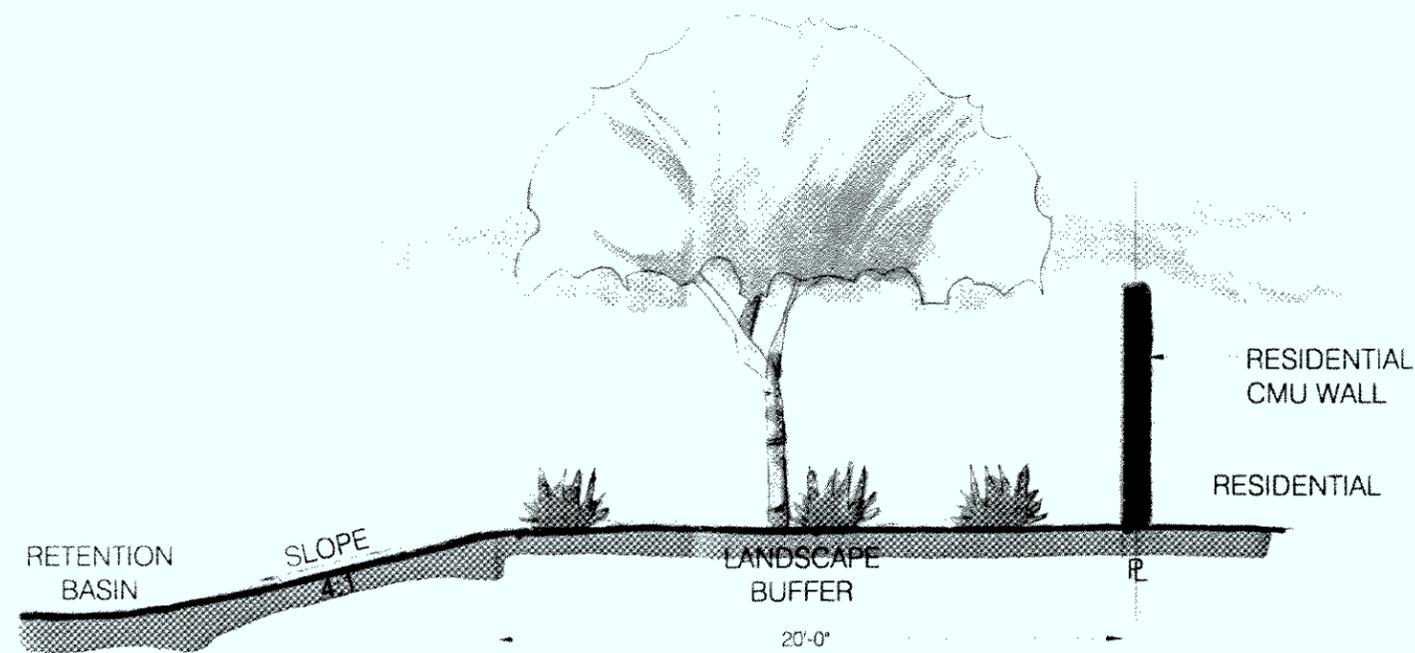
Drawn By: STAFF



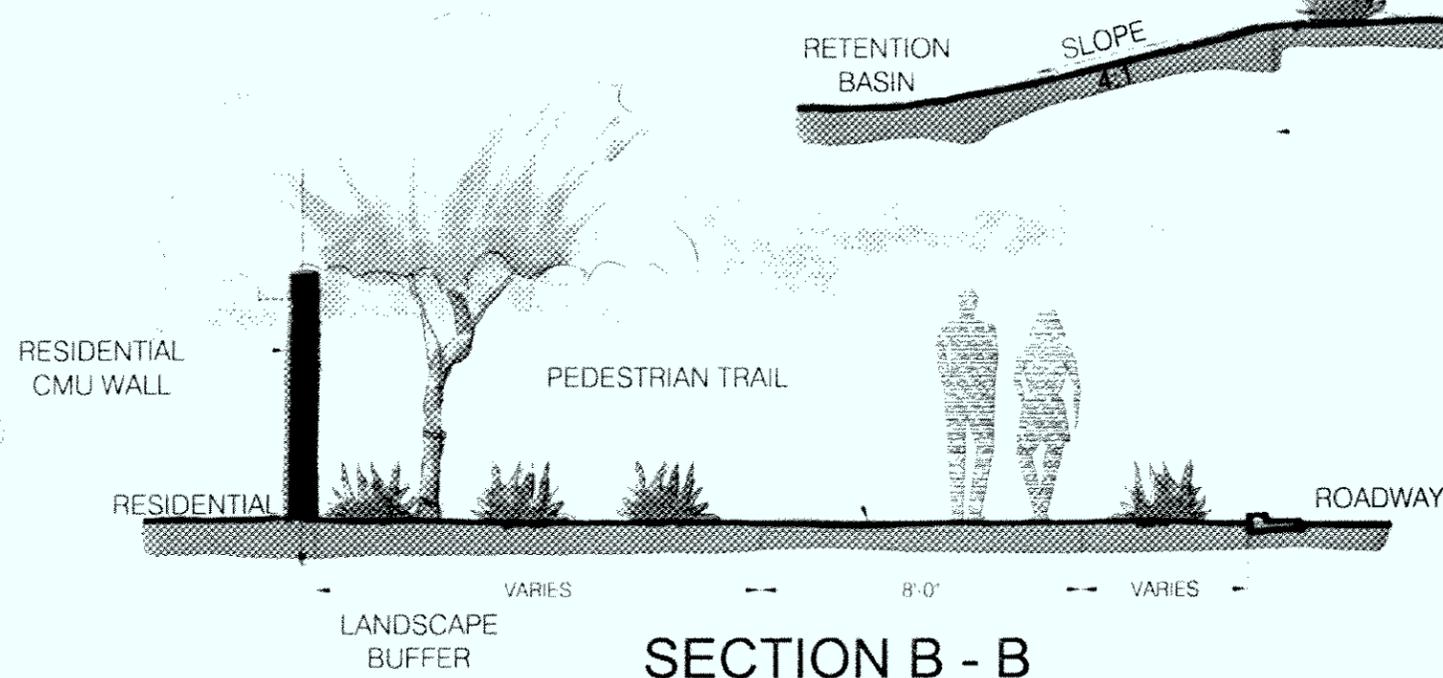
# Fleming Farms

Avondale, Arizona  
Planned Area Development District

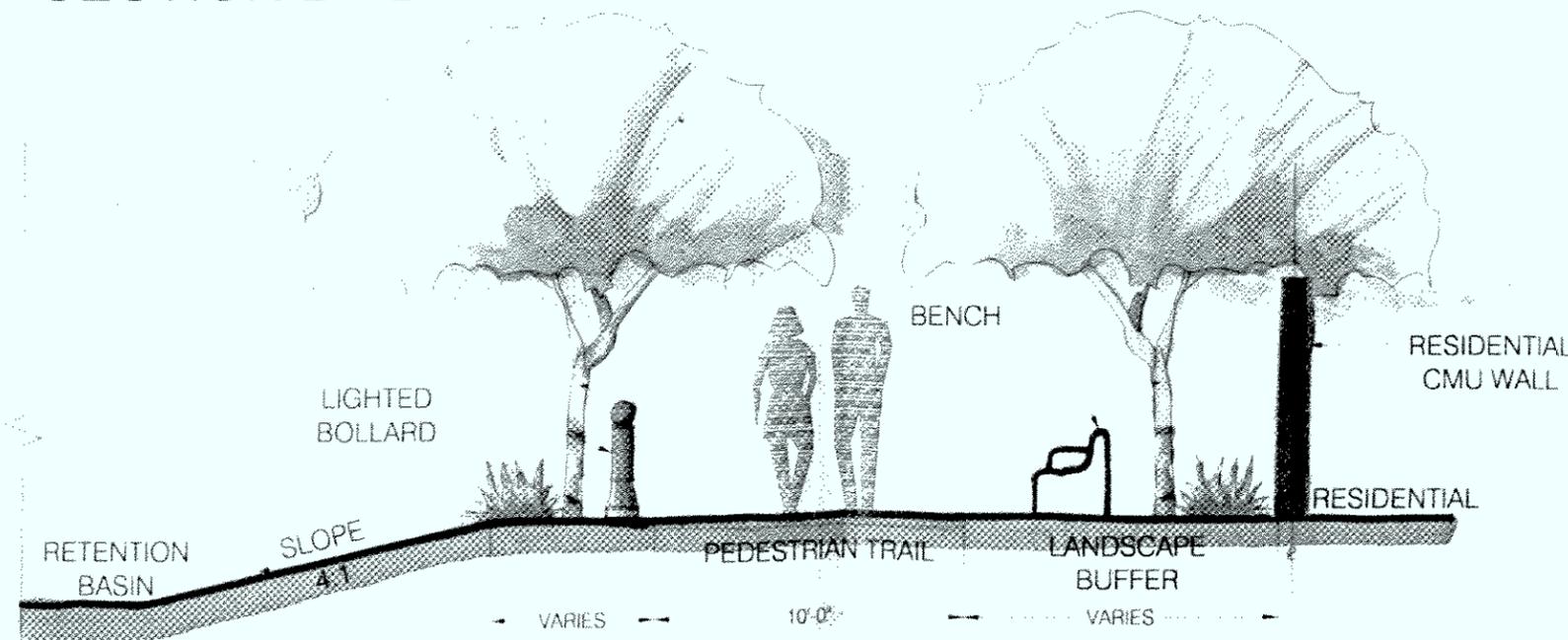
## CONCEPTUAL LANDSCAPE ACTIVE AREA/OPEN SPACE



SECTION A - A



SECTION B - B



SECTION C - C



Project #: 50063-09

August 2006

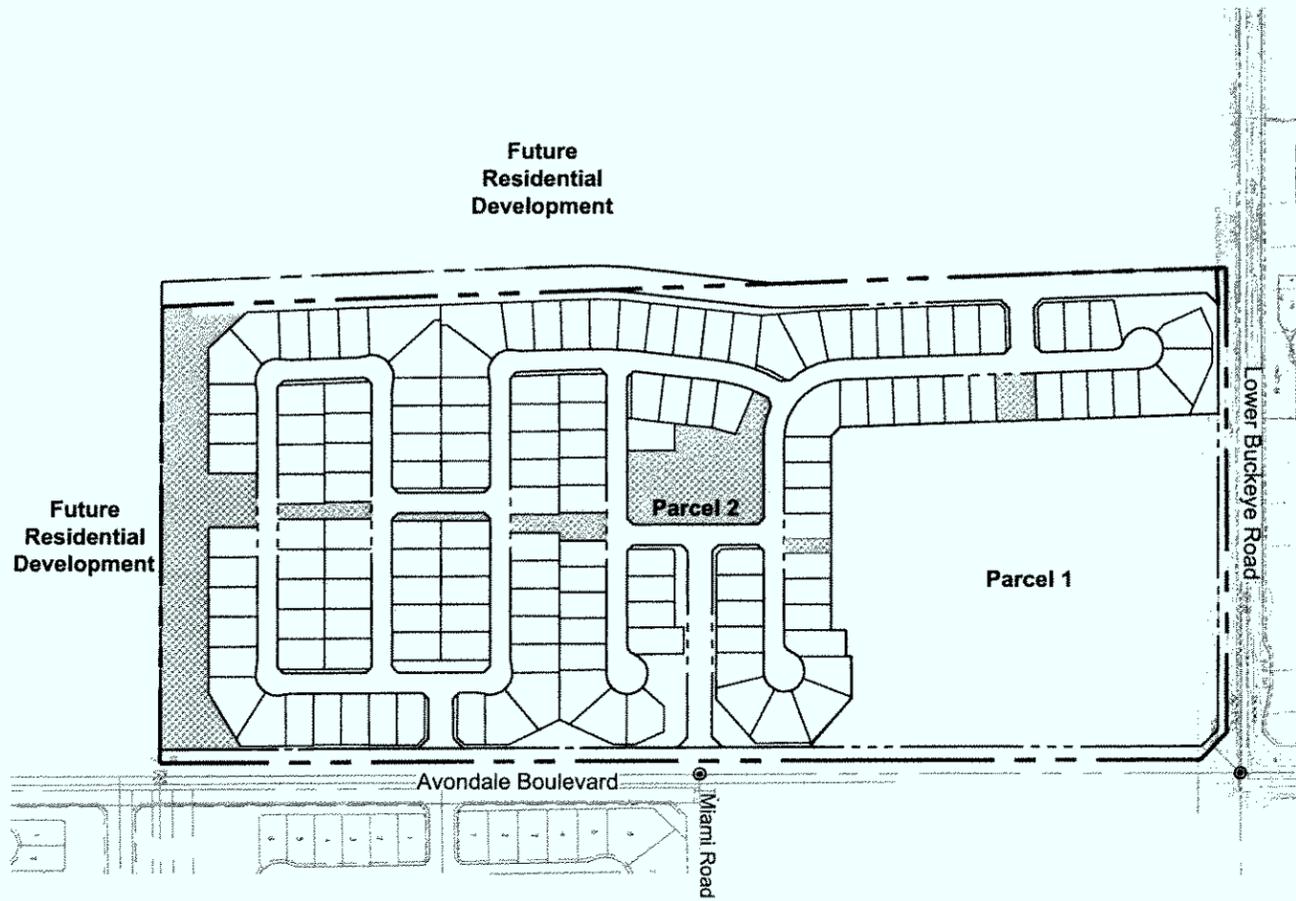
Project Manager: RP

Designed By: STAFF

Graphics By: STAFF

Drawn By: STAFF





- Project Boundary
- - - Parcel Boundary
- █ Active Open Space

# Fleming Farms

Avondale, Arizona

## Conceptual Active Open Space Exhibit



### Residential Site Data

Net Residential Area = 49.7 ac  
 Active Open Space = 6.36 ac  
 Active Open Space Percentage = 12.8 %\*

\*based on Net Residential Area

CMX Project Number: 7204  
 Project Manager: S. Duplessis  
 U:\7200\7204\Planning\Exhibits\Submitals\PA\3rd\Submital\7204-Active Open Space Exhibit.dwg  
 Aug 04, 2006 10:30am  
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FLEMING  
FORMS  
PRIMARY ENTRY



PRIMARY ENTRY MONUMENTATION  
Scale: N.T.S.



Project #: 50063-09  
August 2006  
Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

Drawn By: STAFF



**FLEMING**  
*forms*   
**SECONDARY ENTRY**



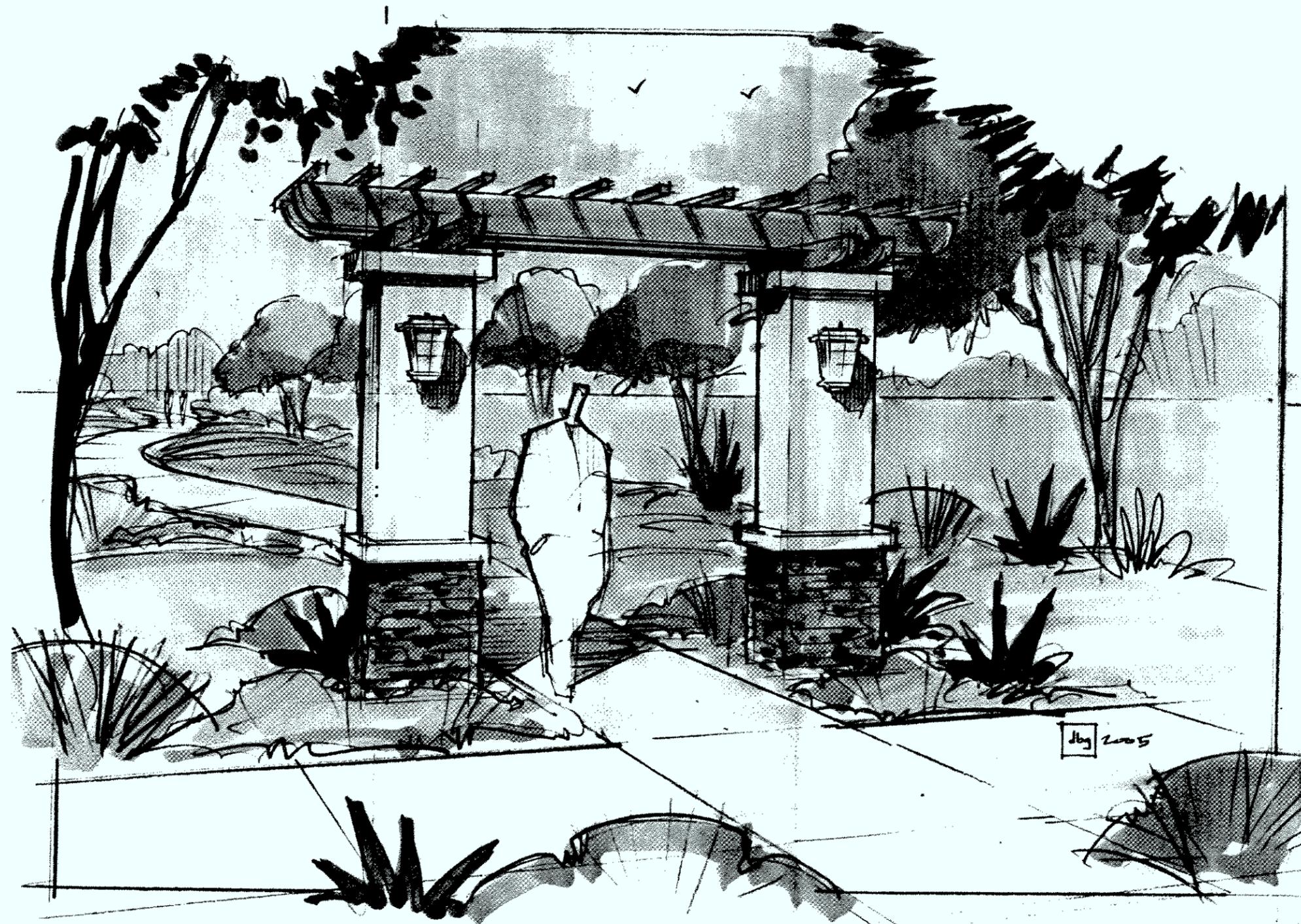
**SECONDARY ENTRY MONUMENTATION**  
Scale: N.T.S.



Project #: 50083-09  
August 2006  
Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

Drawn By: STAFF





TRELLIS OPENSOURCE ENTRY  
Scale: 1/2" = 1'-0"



Project #: 50063-09  
August 2006  
Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

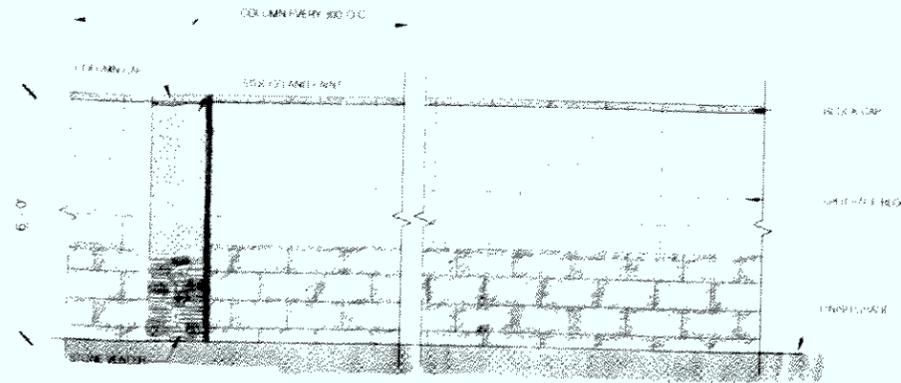
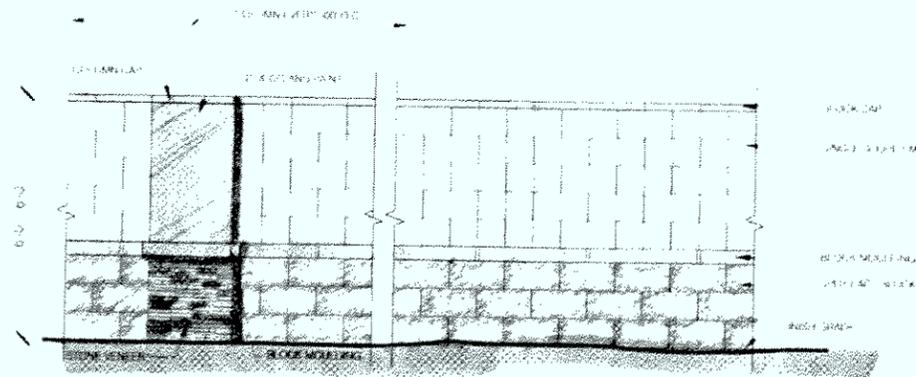
Drawn By: STAFF



# Fleming Farms

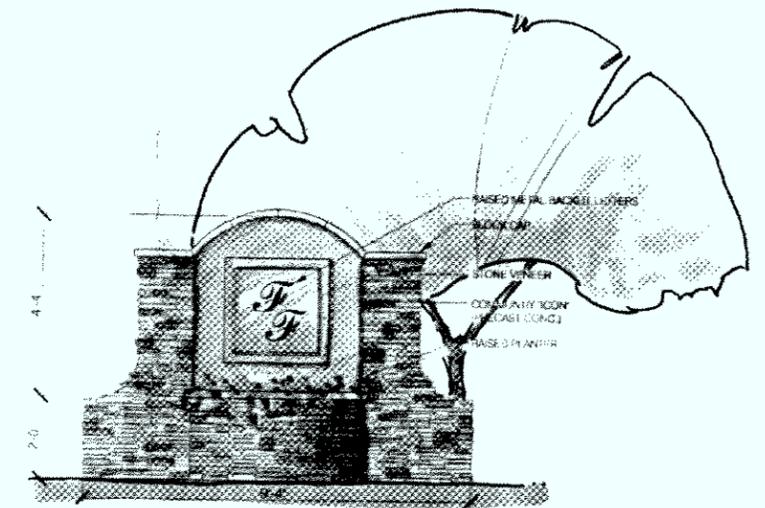
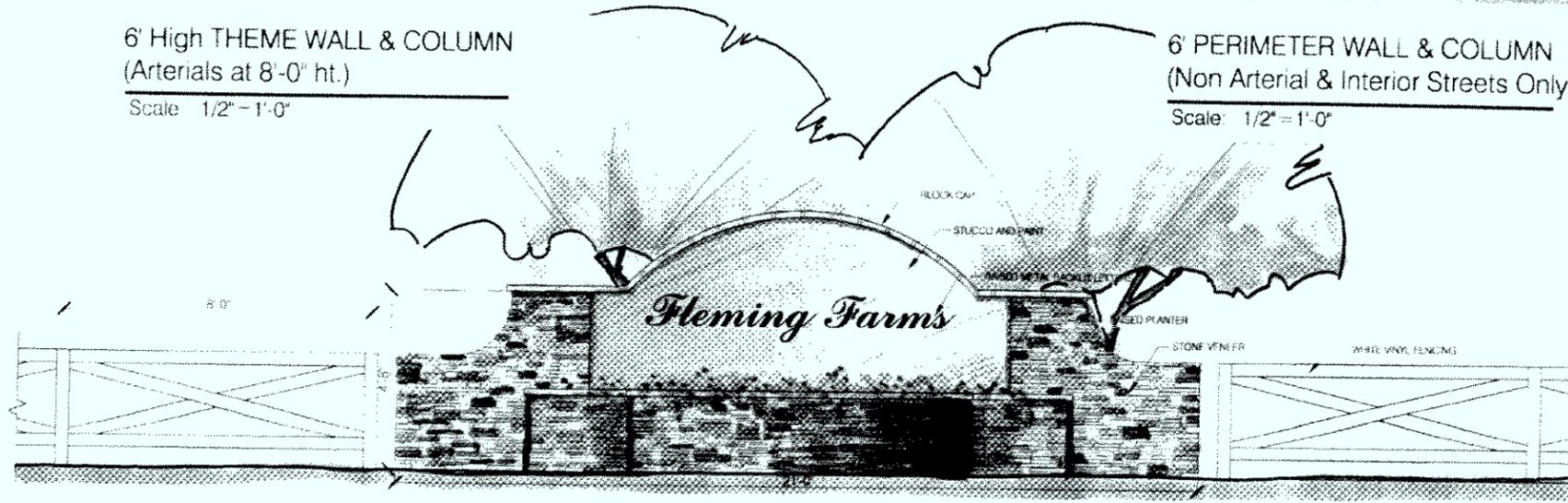
Avondale, Arizona  
Planned Area Development District

## HARDSCAPE DETAILS



6' High THEME WALL & COLUMN  
(Arterials at 8'-0" ht.)  
Scale: 1/2" = 1'-0"

6' PERIMETER WALL & COLUMN  
(Non Arterial & Interior Streets Only)  
Scale: 1/2" = 1'-0"

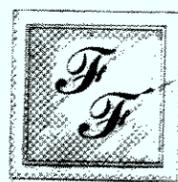


### ENTRY MONUMENTATION

Scale: 1/2" = 1'-0"

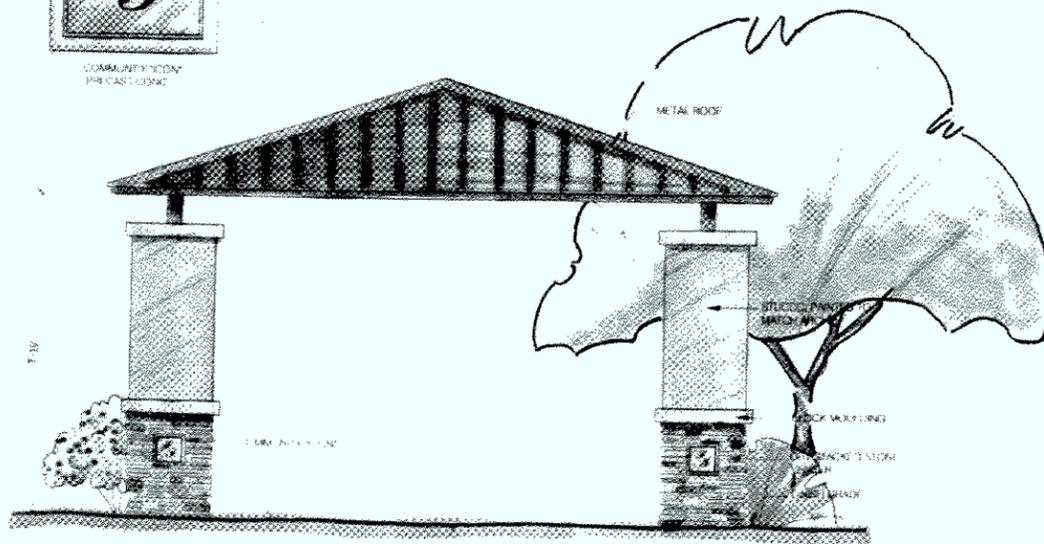
### SECONDARY MONUMENTATION

Scale: 1/2" = 1'-0"



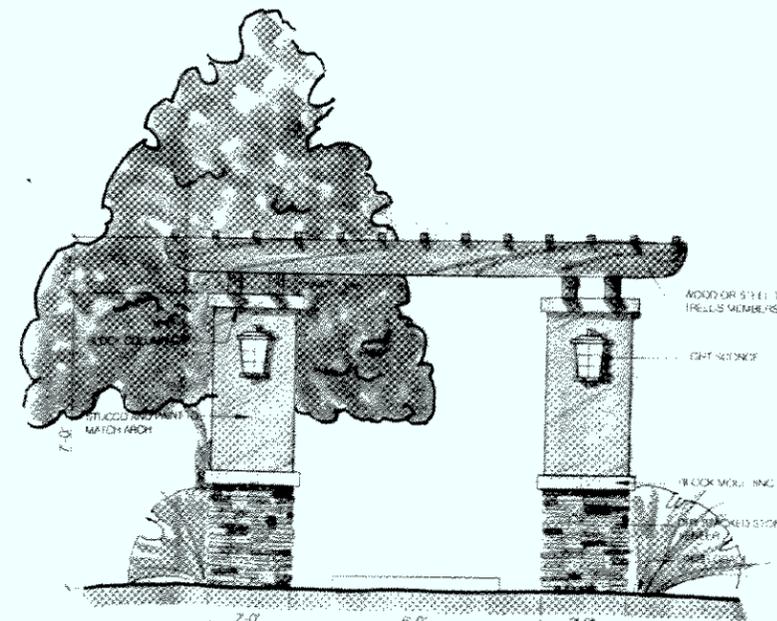
FLOW EXTENDER II  
BLACK FINISH 1" x 1" x 1"

COMMUNITY STONE  
PRECAST CONCRETE



### COMMUNITY RAMADA

Scale: 1/2" = 1'-0"



### TRELLIS

Scale: 1/2" = 1'-0"



Project #: 50063-09

August 2006

Project Manager: RP

Designed By: STAFF

Graphics By: STAFF

Drawn By: STAFF



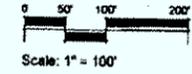
# Fleming Farms

Avondale, Arizona  
Planned Area Development District

## WALL PLAN



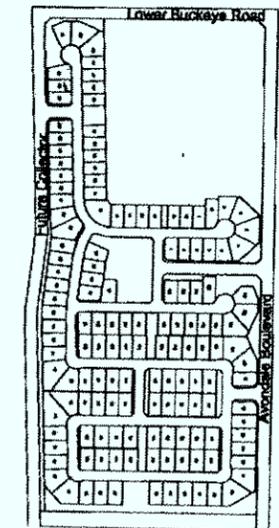
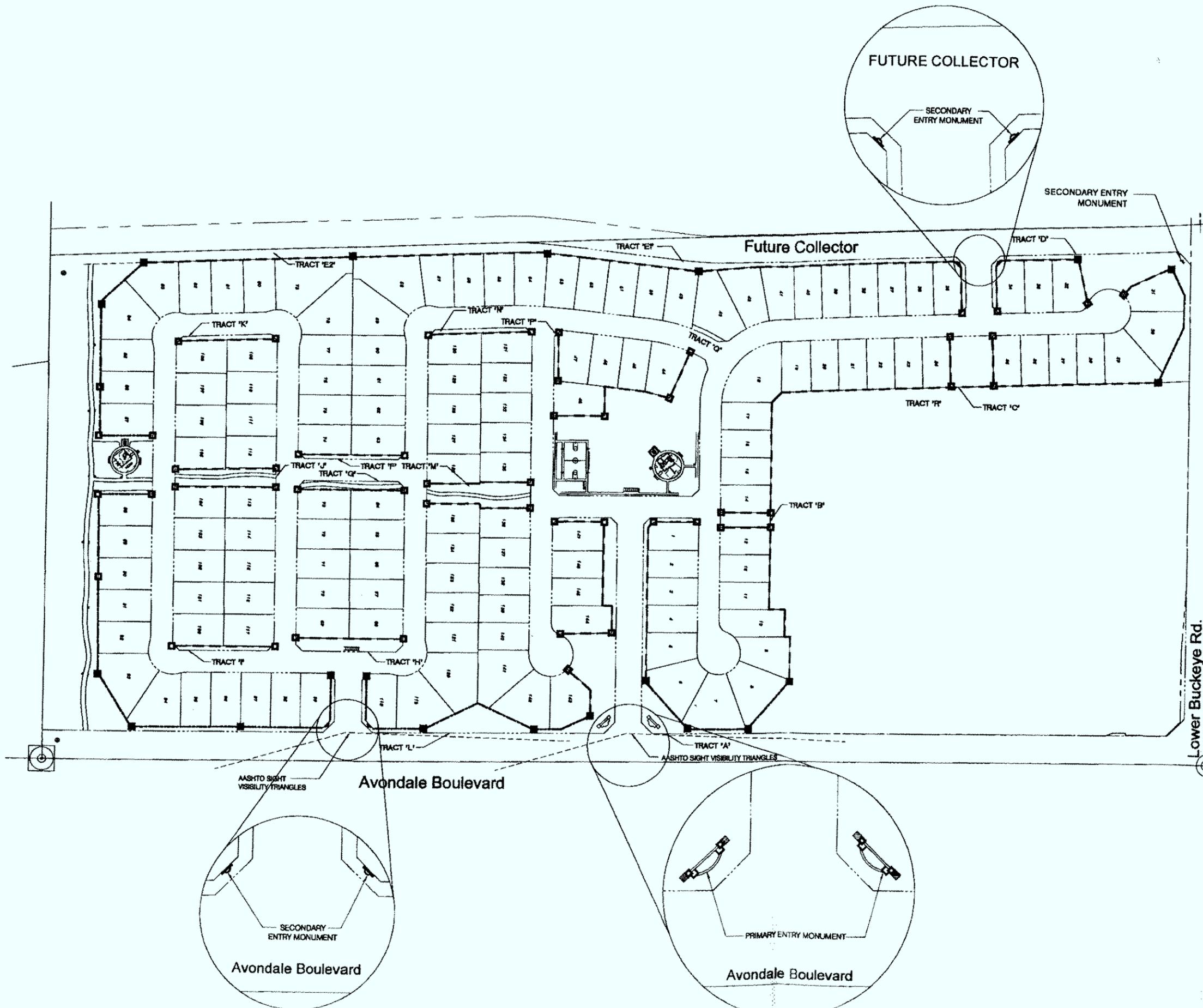
North



Scale: 1" = 100'

### WALL LEGEND

SYMBOL	DESCRIPTION	AMOUNT
	PRIMARY ENTRY MONUMENT	2
	SECONDARY ENTRY MONUMENT	5
	6' PERIMETER WALL	7,932 L.F.
	6' THEME WALL (8' at Arterial)	2,854 L.F.
	16' SQUARE COLUMNS	51
	24' SQUARE COLUMNS	20
	16' x 16' RAMADA	2
	TRELLIS	2



North

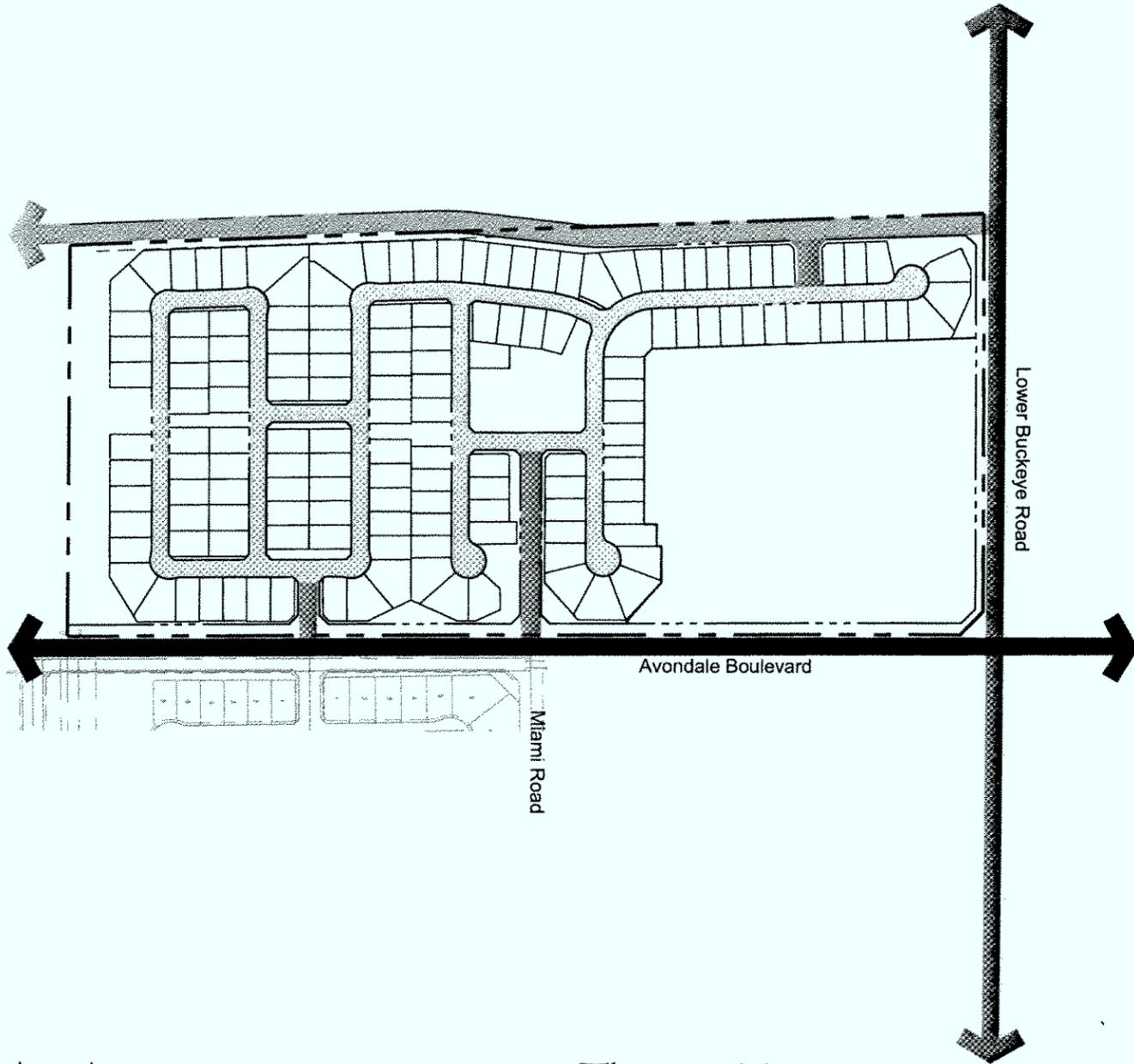
Location Map



Project #: 50063-09  
August 2006  
Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF



Drawn By: STAFF



- Legend**
-  Project Boundary
  -  Parcel Boundary
  -  Major Arterial Street (130' R/W)
  -  Arterial Street (110' R/W)
  -  Minor Collector Street (60' R/W)
  -  Local Entry Street (60' R/W)
  -  Local Interior Street (50' R/W)

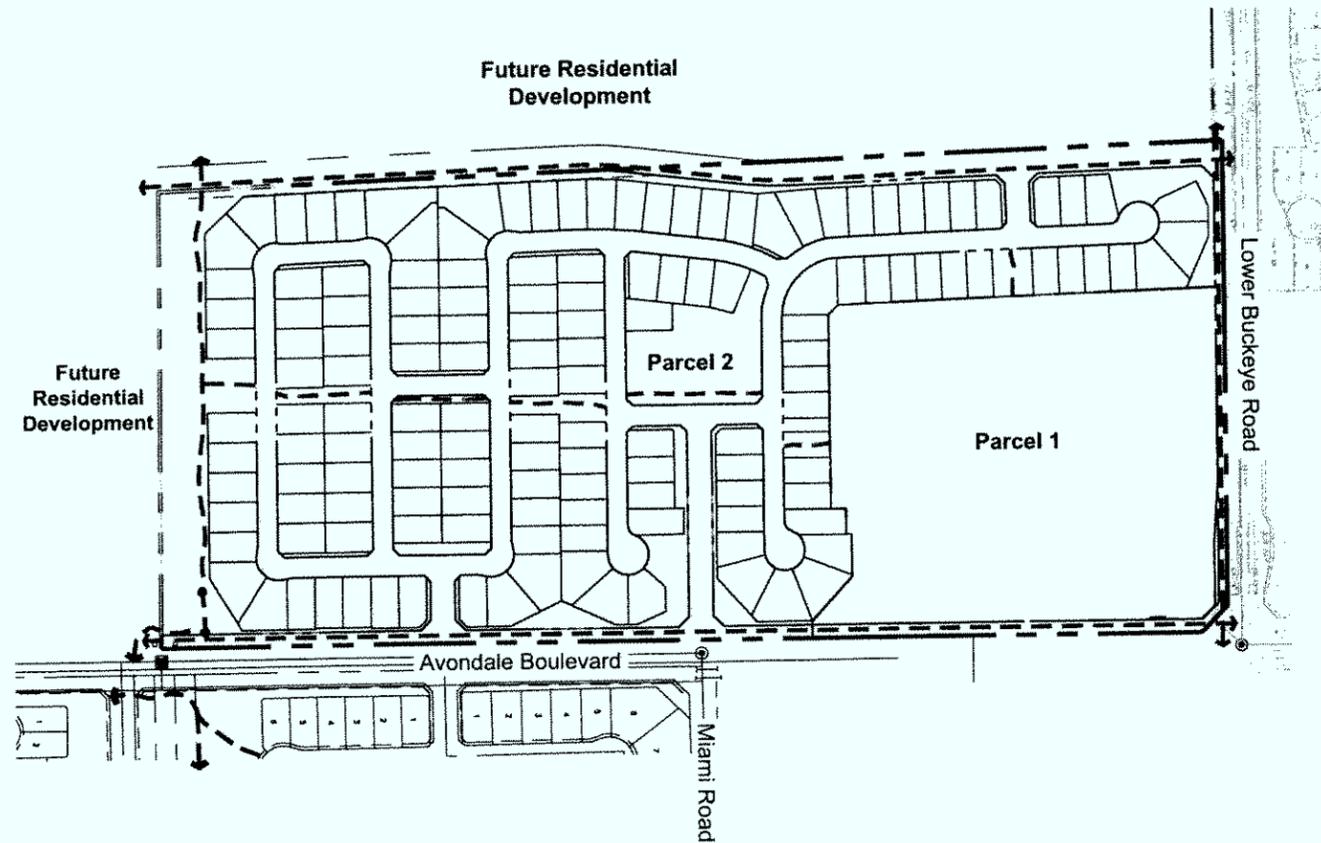
**Fleming Farms**  
Avondale, Arizona

**Street Circulation Plan**



CMX Project Number: 7204  
 Project Manager: S. Duplessis  
 U:\2006\7204\Fleming Farms\Submittal\7204-Street Circulation Plan.dwg  
 Aug 01, 2006 6:04pm  
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**Legend**

- Project Boundary
- Parcel Boundary
- ..... Pedestrian Trail
- Regional Trail
- Bicycle Lane

**Fleming Farms**

Avondale, Arizona

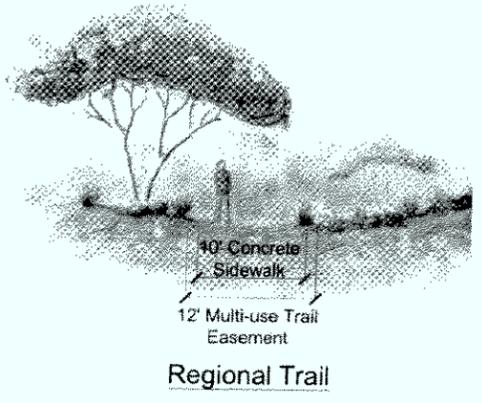
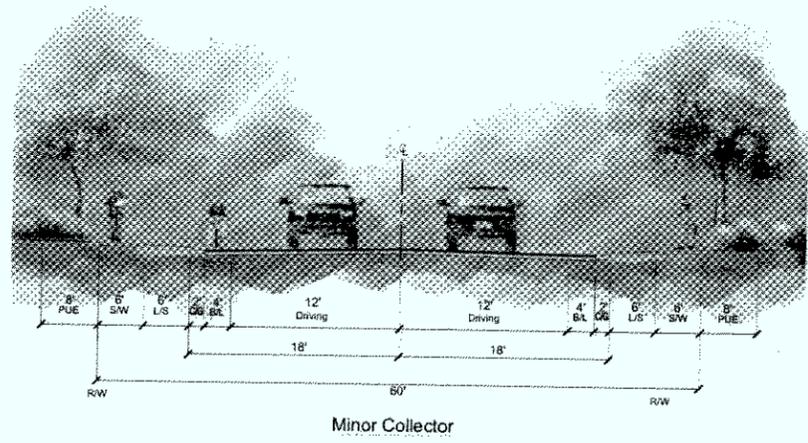
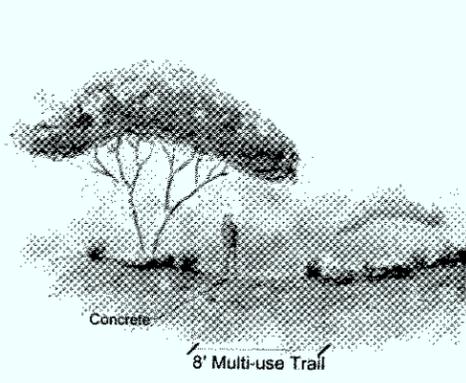
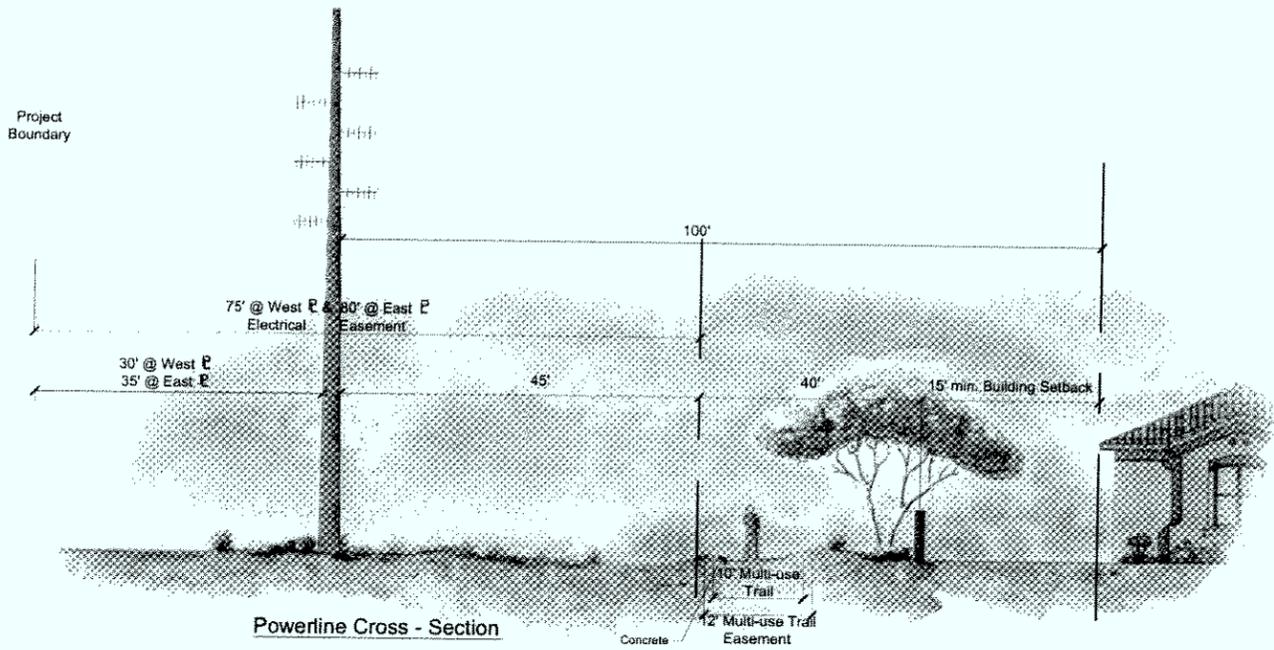
**Master Bicycle and Pedestrian Trails Plan**



CMX Project Number: 7204  
 Project Manager: S. Duplessis  
 U:\7204\7204\_Plan\7204\_Plan\7204\_Submittal\7204\_Master Bicycle and Pedestrian Trails Plan.dwg  
 Aug 08, 2006 5:58pm



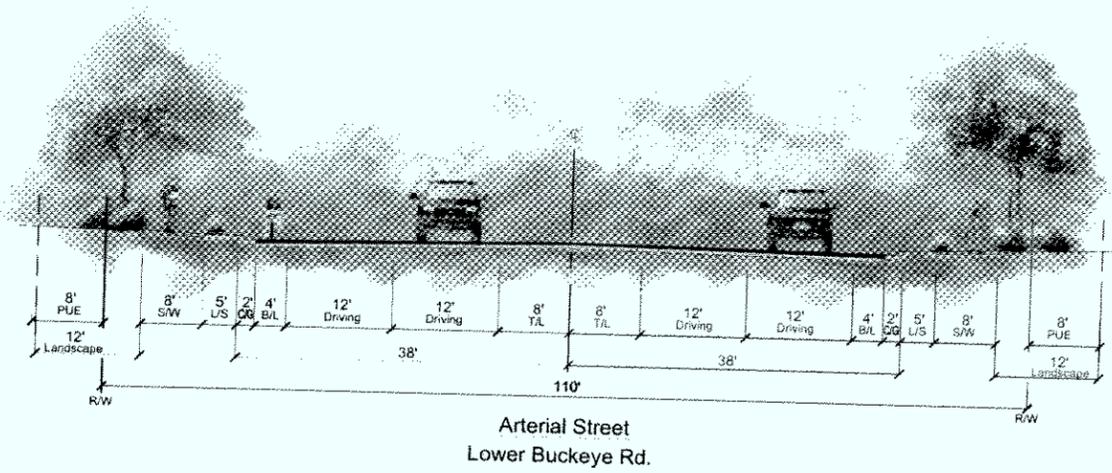
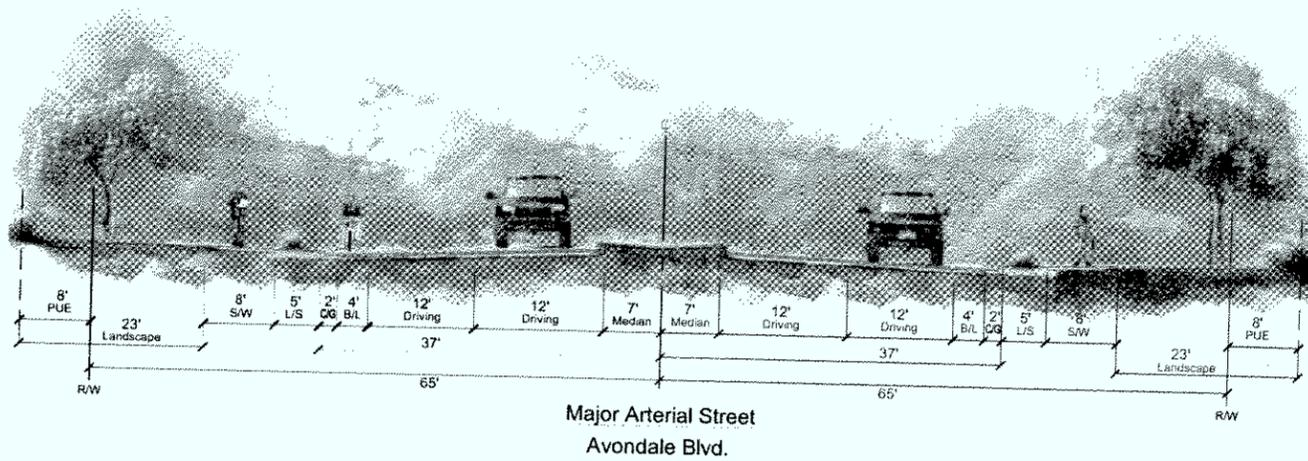
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# Fleming Farms

Avondale, Arizona

## Streets & Trails Cross Sections 1 of 3



# Fleming Farms

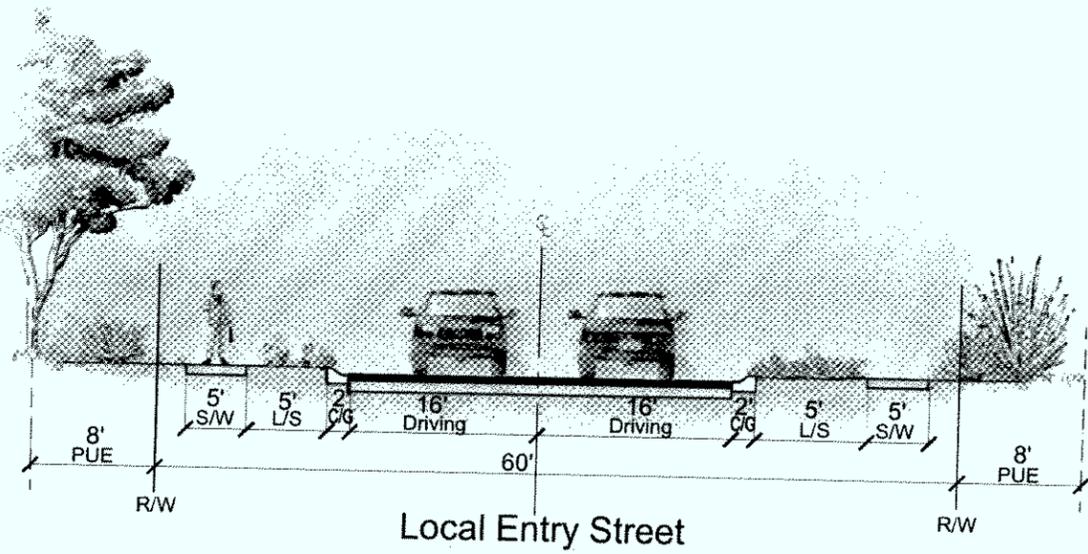
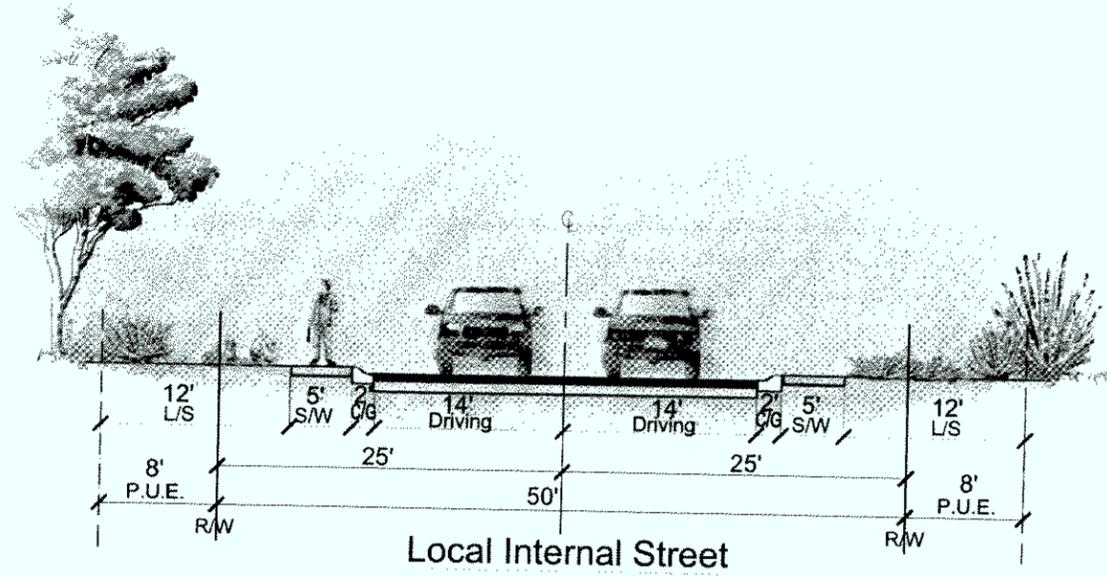
Avondale, Arizona

## Streets & Trails Cross Sections 2 of 3

CMX Project Number: 7204  
 Project Manager: S. Duplessis  
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# Fleming Farms

Avondale, Arizona

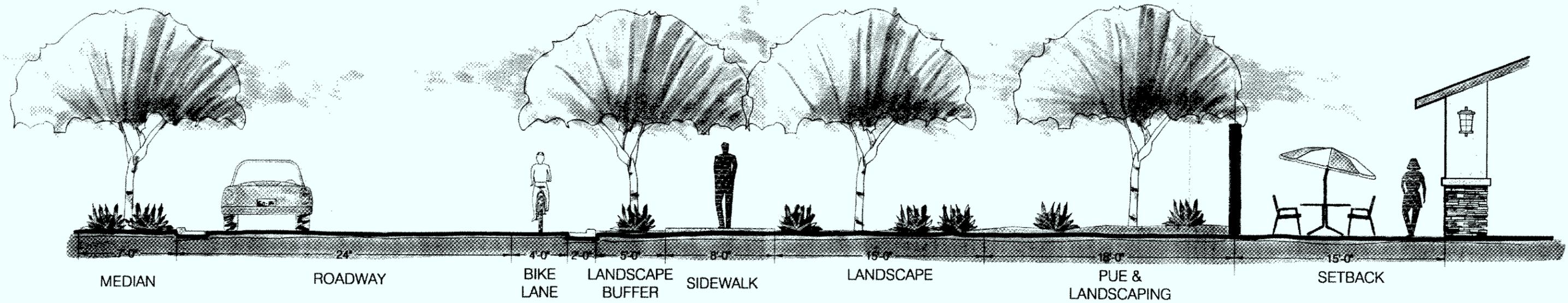
## Streets & Trails Cross Sections 3 of 3



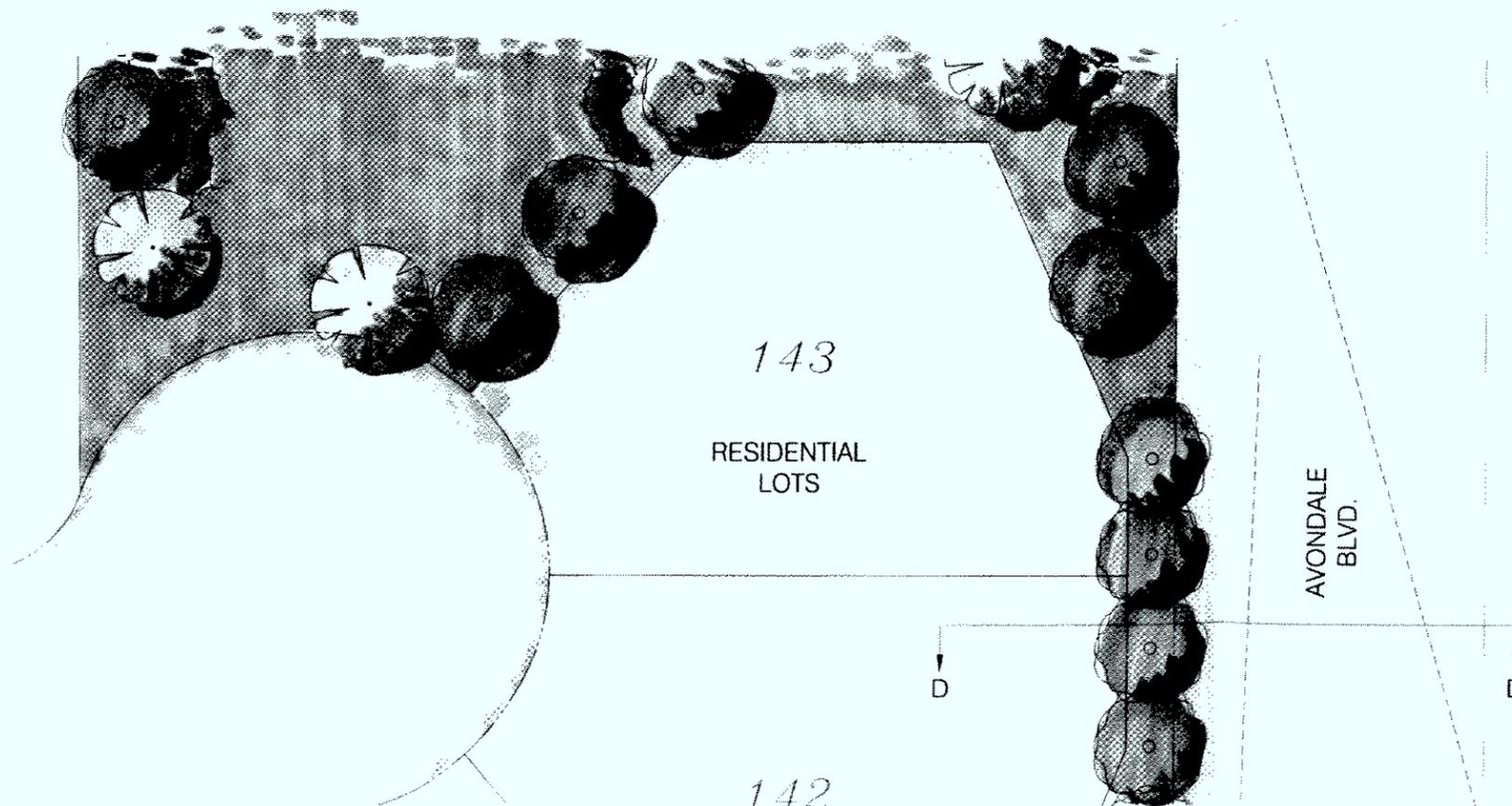
# Fleming Farms

Avondale, Arizona  
Planned Area Development District

## CONCEPTUAL LANDSCAPE



### SECTION D - D



Project #: 50063-09  
August 2006

Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

Drawn By: STAFF



# COMMERCIAL DESIGN GUIDELINES

## 1.0 INTRODUCTION

### 1.1 Overview and Purpose

Approximately 17 acres at the southwest corner of Avondale Boulevard and Lower Buckeye Road known as Fleming Farms (the "Development") are intended for the integrated development of multiple parcels in a functionally efficient and architecturally cohesive manner. These Design Guidelines (hereafter "Guidelines") govern the development of the various parcels (hereinafter referred to as a "Parcel" or "Parcels") which will constitute the Development. The objective is for the Parcels to be developed with building colors, elevations, exterior materials, landscaping and signage conveying a sense of high quality and continuity throughout the Development.

## 2.0 ARCHITECTURE AND BUILDING DESIGN

### 2.1 Architectural Character

The architectural character of Fleming Farms is representative of timeless Southwestern Village design. Its visual elements draw on a vocabulary of simplified detail and traditional forms. A theme of blended forms and integrated materials with soft natural tone colors will provide a relaxed flavor. The four facades of the building will be proportioned and articulated to provide decorative relief. An established palette of colors and materials fitting with the design is enclosed. The combination of materials including, natural colored stone, textured stucco, and concrete tile roofing hints of a residential reference. The materials selected while durable are also consistent with the surrounding context of the neighborhood, which consists of high-quality development.

### 2.2 Massing

The visual impact of a building depends not only on its size, but also on the relationship between its length, width and height. Also, such features as prominent entries, windows, color and materials are factors in the visual impression of a building.

- a. Building mass should be broken into smaller elements, consistent with the proportions of the architectural style selected and surrounding uses. The focus should be breaking up the mass on the sides of the buildings generally visible to the public.

b. In large multi-building projects, vary the size, massing and height of the buildings in relation to each other.

c. Reduction of building mass may be achieved by using a combination of the following techniques:

- Variation in the rooflines and form.
- Use of ground level arcades and covered areas.
- Use of protected and recessed entries.
- Use of vertical elements on or in front of expansive blank walls.
- Use of pronounced wall plane offsets and projections.
- Use of focal points and vertical accents.
- Inclusion of windows on elevations facing streets and pedestrian areas.
- Retaining a clear distinction between roof, body and base of a building.

### 2.3 Design

Articulate facades to provide a visual effect that is consistent with the community's character and scale.

- a. All facades, including back and side elevations of a building generally visible from public view or adjacent to and visible from residential areas, should be architecturally treated and relate to but not overwhelm the neighborhood. All elevations generally visible from public view should reflect the overall design, colors and textures used on the front façade.
- b. Design multi-building projects to include consistent design elements throughout the project.
- c. Building elevations should incorporate architectural features and patterns that include a pedestrian scale.
- d. Internalize, camouflage, screen, underground or otherwise diminish the visibility of any vacuum tubes.
- e. Utilize architectural features, screen walls, landscaping and canopies to integrate drive-throughs into the overall building design.
- f. Fully screen roof mounted mechanical equipment from public view.
- g. Internalize roof drain elements within the building or an architectural feature

such as columns (excepting at-grade discharge and overflow scuppers).

h. For all buildings at least two of these elements should repeat horizontally. Buildings with facades greater than 100 feet in length should include several of the elements listed below, repeated at appropriate intervals, either horizontally or vertically:

- Color change. Recognizable, but not strongly contrasting.
- Texture change.
- Material change.
- Architectural variety and interest through a change in plane such as offsets, reveals, archways or projecting ribs.
- Wall plane projections or recesses.

i. Service and exit doors should be integrated into the architecture of publicly visible elevations.

j. Variations in rooflines or parapets should be used to reduce the scale of commercial buildings. Roof size, shape, material, color and slope should be coordinated with the scale and theme of the building.

- Parapets for concealing flat roofs should feature three dimensional cornice treatments when at the ends or corners of buildings. Where not used in conjunction with other roof elements, parapets should vary in height and have a finished depth at building corners.

The size of all roof elements should be appropriate to the size and scale of roofing materials used.

- Buildings with sloping roofs should include multiple planes.

k. Solid and Soft or Open areas of the façade should be arranged to create a relationship that complements the architectural style of the structure. Soft or open building elements include windows, entryways, arbors, porches, arcades, etc.

l. Predominant exterior building materials should be of high quality and durable. These include, but are not limited to:

- Brick.
- Stone, natural or faux.
- Integral color, sand blasted or stained textured masonry.
- Split-face or scored concrete masonry units.

- Textured tilt-up concrete panels.
  - Stucco/EIFS.
  - Metal roofs.
  - Concrete and clay tile roofs.
  - Clear and tinted glass.
  - Architectural metal.
- m. Predominant exterior building materials should not include the following:
- Un-textured tilt-up concrete panels.
  - Pre-fabricated steel panels.
  - Corrugated metal.
  - Asphalt shingle roofs, except for period architecture.
  - Highly reflective glass.
  - Wood.
- n. Predominant facade colors should possess low reflectivity characteristics, and respect the diversity of color in the southwest. The use of bright color schemes should be justified by the overall design, and may not be appropriate in many contexts.
- o. Building trim and accent areas may feature different building materials and different colors than the building field color, including use of primary colors, if compatible with the architectural design.
- p. Buildings should have clearly defined customer entrance(s) incorporating elements such as:
- Canopies or porticos.
  - Overhangs.
  - Recesses/projections.
  - Arcades.
  - Raised corniced parapets over the door.
  - Peaked roof forms.
  - Arches.
  - Entrance framed by outdoor pedestrian features or enhanced landscaping.
  - Architectural details such as tile work and moldings integrated into the building structure to frame the entryway.
  - Integral planters or wing walls that incorporate landscaped areas and/or sitting areas.
  - Enhanced pedestrian surfaces or hardscape.

## 2.4 Freestanding Accessory Structures

Enclosed service/refuse areas and covered parking should be designed to be an integral part of the building architecture. The forms, colors, textures and materials used on the main building should be applied to all sides of these structures generally visible to the public.

## 3.0 LIGHTING

The following guidelines are intended to ensure that lighting is used to increase safety, provide visual accent, create mood and to ensure that lighting is designed so as not to be a nuisance. Additionally, lighting shall enhance the architectural features of the building structures and reinforce design concepts.

The lighting shall be designed to provide visual accent, create mood, increase safety and to ensure that the design does not become a nuisance. Additionally, lighting shall enhance the architectural features of the building structures and reinforce design concepts. All parking lots must be lit from the interior and/or at the edge of the parking lot, directed to the lot and away from properties outside of the Development. All parking lot light poles abutting residential property shall have house side shields. Light fixtures shall be full 90 degrees cut off.

Large area floodlights are not permitted. Spotlights highlighting areas may not be mounted above 15 feet from ground level (measured from finished grade at the base of the fixture to the top of the fixture). Roof mounted spotlights are not permitted. Ground mounted spotlights or floodlights may be used providing they point toward the building and do not spill over into adjacent areas; cut-off shielding must be installed.

## 4.0 LANDSCAPING

### 4.1 Landscape Concept

The landscape design shall be sensitive to the desert environment and should incorporate low water-use plant species, complement the architecture and be cohesive throughout the Development.

All Parcels shall be landscaped in a manner that reinforces and complements any existing landscape elements and conforms to City of Avondale requirements. All landscaping should be designed, selected and placed in a manner that is easy to maintain and requires limited irrigation. Water conserving designs are encouraged; however, large expanses of decomposed granite or rock materials

without ground cover and/or shrubs are prohibited.

#### 4.2 General Landscape Design

All portions of a Parcel not covered by buildings or developed as parking or pedestrian areas shall be landscaped. A minimum 10% total landscape coverage shall be provided on each Parcel.

#### 4.3 Plant Material

All plant material shall be nursery grown, of good habit, free of disease and representing the best quality of the species. All planting shall be installed in accordance with good horticultural practices of the area. All plant material must be located so as to ensure safe traffic sight lines, signage visibility and pedestrian safety (i.e., avoid thorns in and adjacent to pedestrian areas). Ground covers should be utilized to create relief areas of greenery and dense vegetation.

### 5.0 SIGNAGE

All signage shall be consistent, integrated with the Development's architectural character and designed in a manner that will not create a nuisance or diminish the visibility and/or value of other Parcels. All signage shall be aesthetically appropriate and shall be designed to guide both pedestrian and vehicular traffic and circulation. Signage shall be consistent with the City of Avondale sign regulations.

### 6.0 SITE PLANNING GUIDELINES

#### 6.1 Grading and Drainage

Site grading design shall cause all water to drain away from buildings and shall complement the architectural and landscape design. Care shall be taken to ensure that any landscape berming does not direct drainage across adjacent Parcels or impair drainage from adjacent Parcels, unless otherwise approved as part of the Development's master grading and drainage plan. In addition, parking and drive grades shall be designed to comply with the master grading and drainage plan for the Development.

Grade transition between Parcels shall be free from excessive slopes (other than where approved retaining walls are provided). When grading is in public view, smooth slope transitions between grade changes shall be created (other than where approved retaining walls are provided). Retaining walls, garden walls and other such site features constructed immediately adjacent to or connecting

with a building must be constructed of a material that visually matches the exterior building or that is an integral material in the landscape.

## 6.2 Circulation

The site plan for each Parcel shall be designed to encourage cross-site usage to occur between the adjacent Parcels. Vehicular and pedestrian pathways through the Development shall be designed so that onsite circulation between the Parcels is safe, fluid and provides a feeling of continuity.

## 6.3 Parking Area Design

All parking areas shall include planted landscape islands at the ends of each row. There shall be no more than twelve (12) parking stalls contiguous to each other. In cases where there are more than 12 parking stalls in a row, there shall be a landscape planter between every 12 stalls that is at a minimum 160 square feet (8' by 20') and that is protected by 6-inch high curbs on all sides. Parking lot screen walls shall match the theme walls for the residential portion of the Site.

## 6.4 Pedestrian Connections

Walkways shall connect all Parcels to Avondale Boulevard and/or Lower Buckeye Road in the safest and most convenient manner possible. Strong pedestrian connections shall also be provided between adjoining Parcels, and must be constructed with decorative concrete or other decorative materials. Pedestrian connections within the commercial Parcel shall be separate from the main drive aisles.

## 6.5 Bicycle Parking

Designated areas and facilities for bicycle parking are encouraged on each Parcel.

## 6.6 Driveway Entrances

The design of all driveway entrances shall include decorative concrete or other decorative materials.

## 6.7 Refuse Areas

Refuse areas shall be screened with a masonry wall not less than six (6) feet in height and of a size sufficient to accommodate dumpsters and/or compactors that will hold all refuse generated between collection times. All such screen walls shall be constructed using materials and finishes compatible with the

building(s) to be constructed on the Parcel. All refuse enclosures must be provided with opaque metal gates painted to complement the building color palette (as further described below). Refuse collection areas shall be designed and located on the Parcels so as to meet all applicable governmental requirements, be convenient for depositing refuse generated on-site and provide clear and convenient access to refuse collection vehicles, thus minimizing wear-and-tear to onsite and offsite improvements. Refuse enclosures and associated concrete pads shall not be located within or conflict with typical vehicular access or movements on any common area drive aisles. Refuse receptacles must be covered. Deliveries and trash pickup shall be restricted to 6am to 10pm daily.

#### 6.8 Utility Structures

Utility equipment must be located and screened in accordance with the City of Avondale requirements. All water, gas, sewer, electrical and communication lines must be installed underground. Architectural screening shall be constructed using materials and finishes compatible with the architecture theme/style of the overall neighborhood center. Concrete lighting bases and shopping car corrals shall be designed to match commercial architectural theme.

#### 6.9 Walls /Fences and Separation of Uses

The texture, color, material and design of all walls and fences shall match the design of the Development and shall harmonize with the design of the building(s) to be constructed on the Parcel. No barbed wire, chain link or wood fences are permitted.

Within the front yard setback, maximum wall height shall be three and one-half feet (3'-6") and designed to match the theme walls for the residential portion of the Site. Walls which front onto a public street shall be constructed of masonry with stucco, slump block or brick designed to match the main building of the site. Stained block is a permitted material. Painted block is prohibited.

Where commercial uses are located adjacent to or separated by an alley from any residential use or district, a twenty (20) foot wide landscape strip, planted with one (1) tree every twenty (20) linear feet, shall be required along the common property line. Trees must be non-deciduous and may not be clustered. The twenty (20) linear foot area shall not serve as a retention area. A six (6) foot masonry wall shall be required along the common property line.

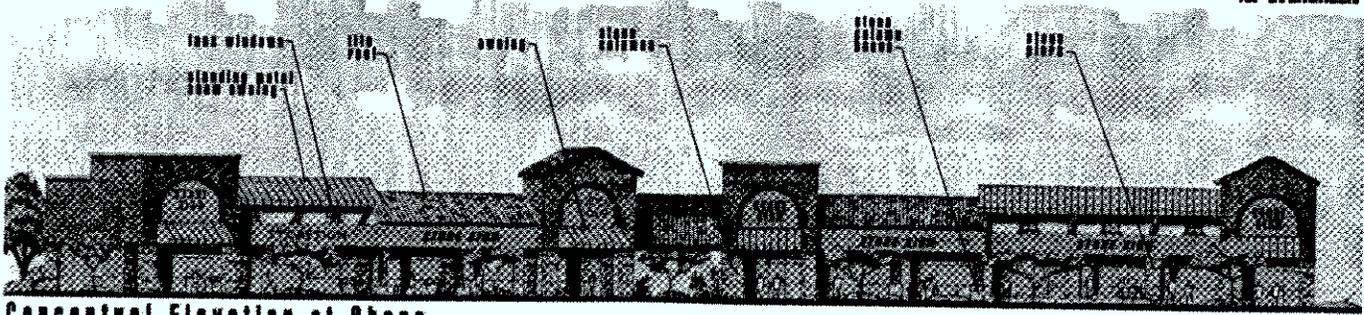
**7.0 HOURS**

The business hours for commercial portion of Fleming Farms shall be 6am to midnight. Business hours that are in addition to those permitted require approval of a Conditional Use Permit.

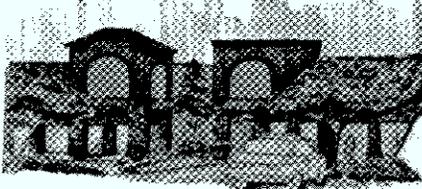
**8.0 LOADING & DELIVERY AREA / SERVICE BAYS / CARWASH BAYS**

All loading and delivery areas and service and carwash bays shall not front onto a public street and shall be screened from public view with at least a six (6) foot wall, constructed using materials and finishes compatible with the architecture theme/style of the overall neighborhood center.

**SWC AVONDALE BLVD  
+ LOWER BUCKEYE RD**  
AVONDALE, ARIZONA  
for **EVERGREEN DEVCO INC.**



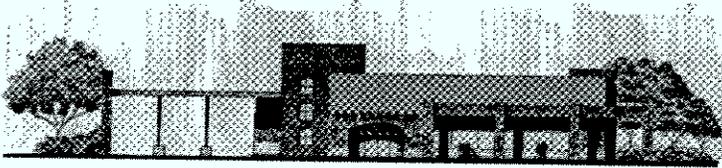
**Conceptual Elevation at Shops**



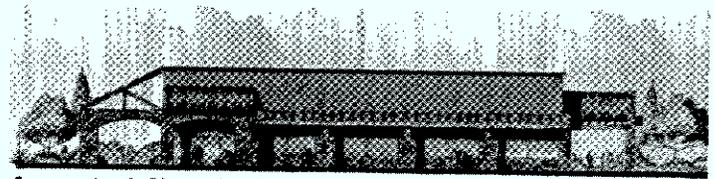
**Conceptual Perspective At Shops**



**Conceptual Elevation at Pod**



**Conceptual Elevation At Bank**



**Conceptual Elevation At Offices**

Field Color	Accent Color	Standing Seam Awning
Accent Color	Stone - Flats and Columns	
Field Color	Tile Roof	
Accent Color	Site Lighting and Screens	Faux Windows

**Conceptual Colors & Materials**



① 150000 2000  
25000  
17 FEBRUARY 2000  
**ELLERMANN,  
SCHICK &  
BRUNO**  
ARCHITECTURE PLANNING  
1961 E BROADWAY SUITE 1000 DENVER CO 80202

## **RESIDENTIAL DESIGN GUIDELINES**

The residential design at Fleming Farms is envisioned to provide a diverse, traditional neighborhood being an asset to both homeowners and the community. The following principals outline design and planning concepts that reinforce a sustainable, quality neighborhood. These guidelines are intended to outline the quality and standards that the residential architecture will play in realizing this vision. All of the housing products illustrated within these guidelines are capable of being built on the smallest lots being provided in Fleming Farms. While not intended to be restrictive or all-inclusive, these guidelines set the expectations that all residential product will be compared and evaluated in providing a quality project exceeding the requirements of the residential guidelines of the City of Avondale.

### **Architectural Diversity**

Creating an attractive and diverse streetscape requires that care and forethought go into plotting to avoid repetitious and monotonous elements. Street scenes shall not have homes that repeat floor plans, elevation styles and color schemes next to one another.

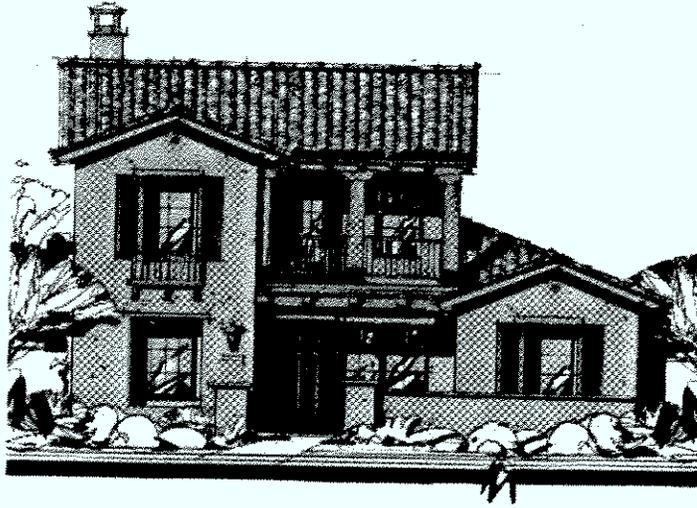
- A variety of plan orientations is encouraged.
- No two 2-story homes shall be platted adjacent to one another along Avondale Blvd.
- The use of a floor plan shall be limited to no more than 50% of the total homes built.
- The use of an elevation style shall be limited to no more than 50% of the total homes built.
- No two adjacent homes, or homes directly across the street, will utilize the same roofline and elevation style, either standard or reversed. As an example, Plan 1 with Elevation A is not permitted next to or across the street from another Plan 1 with Elevation A, however Plan 1 with Elevation A is permitted next to or across the street from Plan 1 with Elevation B, and Plan 1 with Elevation A is permitted next to or across the street from Plan 2 with Elevation A.

### **Architectural Styles**

The architectural character of Fleming Farms will draw on the traditional vernacular styles found in the region. The intent is to reinforce complementary yet diverse homes on a streetscape. The following styles were chosen both for their graceful, 'timeless' design as well as for practicality of construction within the context of production housing. These guidelines illustrate examples and defining characteristics of each chosen style, however, not all of the elements contained in these illustrations are required on each home. They are intended to serve as a reference to maintain the integrity of each specific style and to avoid the incorporation of inconsistent architectural elements. Architectural products of similar character and scale may be used in place of authentic detailing. Additional architectural styles may be proposed by homebuilders and subject to administrative review and approval.

- A minimum of three elevation styles for each home plan is required.
- The use of a covered porch, courtyard, balcony or a front covered entry of no less than 20 square feet is required on all of the homes.
- Rear yard covered patios shall be architecturally integrated into the design of the homes.





## MONTEREY

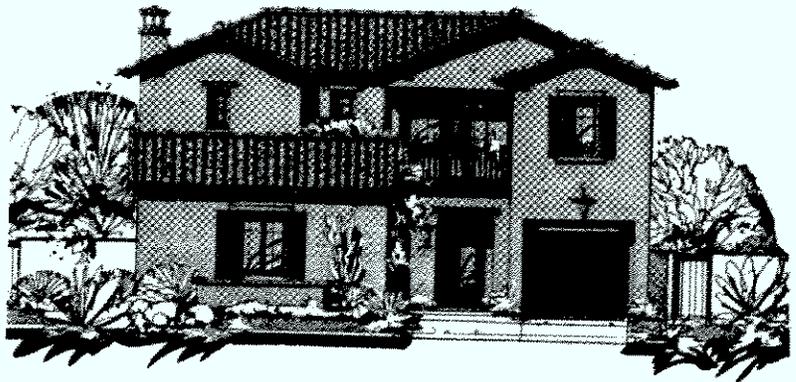
The Monterey style evolved as a unique character to the western United States by blending the Spanish architecture of the region with the construction techniques and detailing from the migration of the American Colonial architecture from the east. This style adapted the wood frame construction techniques and detailing of two-story homes with the traditional one-story adobe walls of the regional Spanish architecture. These homes were typically two-story rectangular plans with a cantilever balcony becoming its signature statement.

### MASSING / FORM

- Informal plan arrangement
- Simple two-story asymmetrical masses
- Second story balconies
- Exposed beams and posts
- Low pitched gable or hipped rooflines
- Deep overhangs

### FINISHES / DETAILS

- Stucco or wood-like siding exterior walls
- Rectangular windows and openings
- Exposed wood-like lintels
- Exposed wood-like rafter tails
- Rustic wood-like shutters
- Minimal wrought iron work
- Optional carriage style garage doors

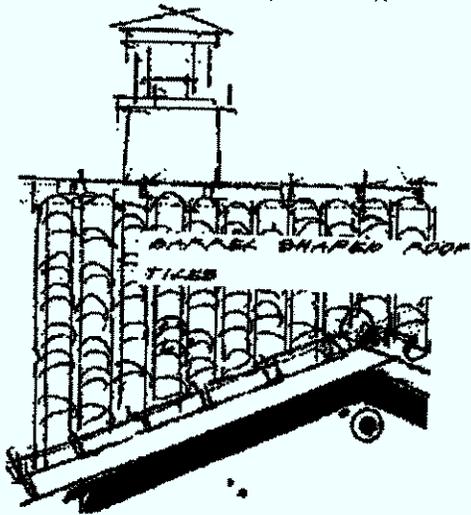


### MATERIALS / COLORS

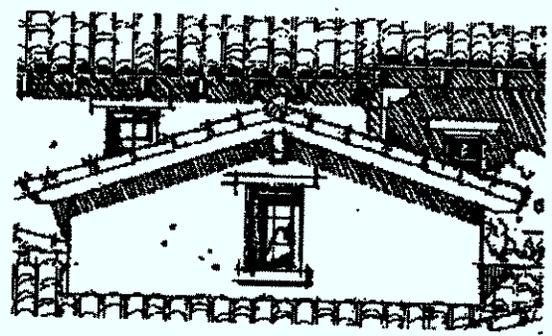
- Earth tone colored exterior walls
- Barrel or shake style roof tiles
- Divided windowpanes on front and street-side elevations



RESIDENTIAL DESIGN GUIDELINES

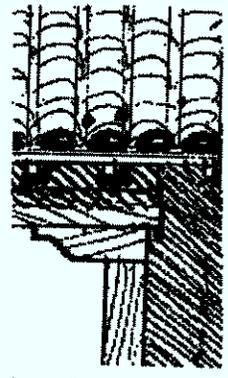
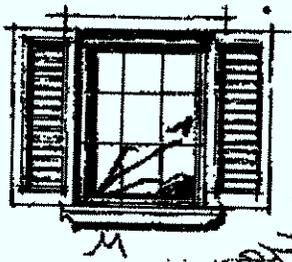


BAMMEL SHAPED ROOF  
TILES



EXPOSED RAFTER TRUSS  
BEAMS AND TRIM

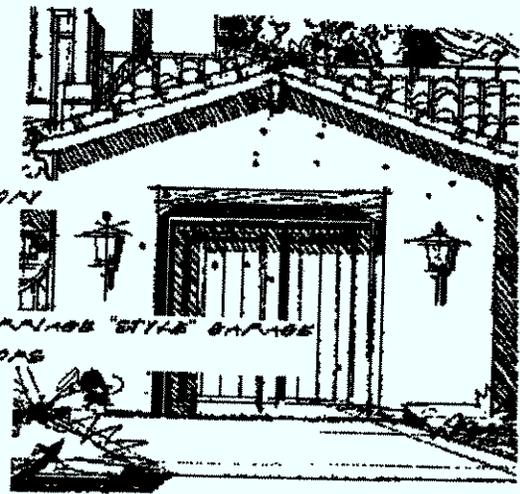
NEGATIVE TILE VENT  
STUCCO EXTENSION WALLS  
COLONIAL STYLE SHUTTERS



ROOF WITH CORNICE



SECOND STORY  
BALCONY



CARRIAGE "STYLE" GARAGE  
DOORS





## TERRITORIAL RANCH

The Territorial style evolved from early country homes adapting with the westward movement to this region. Colonial, Monterey and Spanish Architectural influences can be found in the Territorial Ranch style. Early Ranchers simplified the construction and detailing of these styles influenced by their rural lifestyle while responding to the realities of their environment and available materials. The significant use of porches and patios enhanced the relationship of indoor and outdoor spaces inherent with their rural lifestyle.

### MASSING / FORM

- Simple one and two-story rectangular masses
- Porches and patios
- Low pitched predominantly gabled and shed rooflines
- Gabled dormers
- Deep overhangs

### FINISHES / DETAILS

- Stucco or optional stone or brick exterior wall materials
- Stucco or stone chimneys
- Exposed rustic wood-like beams and posts structure
- Rectangular windows and openings
- Exposed rustic wood-like lintels
- Exposed wood-like rafter tails
- Rustic wood-like shutters
- Optional carriage style garage doors

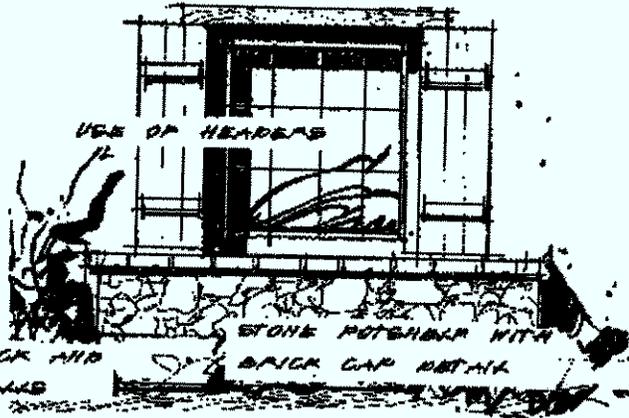
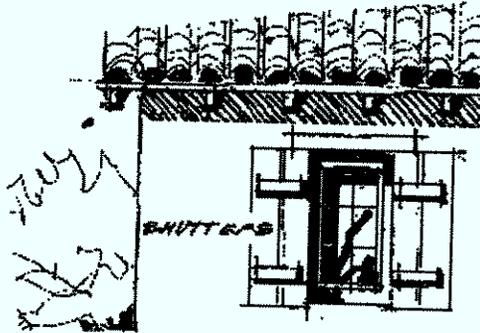


### MATERIALS / COLORS

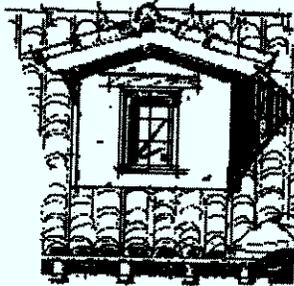
- Medium to darker earth tone colored exterior walls
- Flat shake, barrel roof tile or partial metal roofing
- Divided windowpanes on front and street-side elevations



RESIDENTIAL DESIGN GUIDELINES

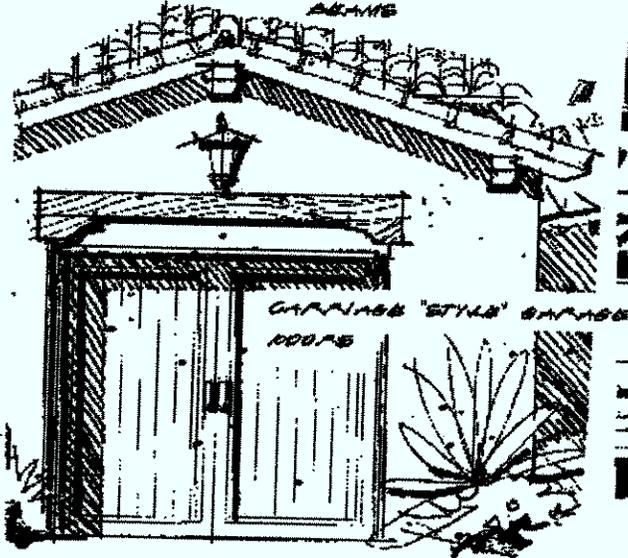


USE OF STUCCO BACK AND  
STONE EXTERIOR WALLS



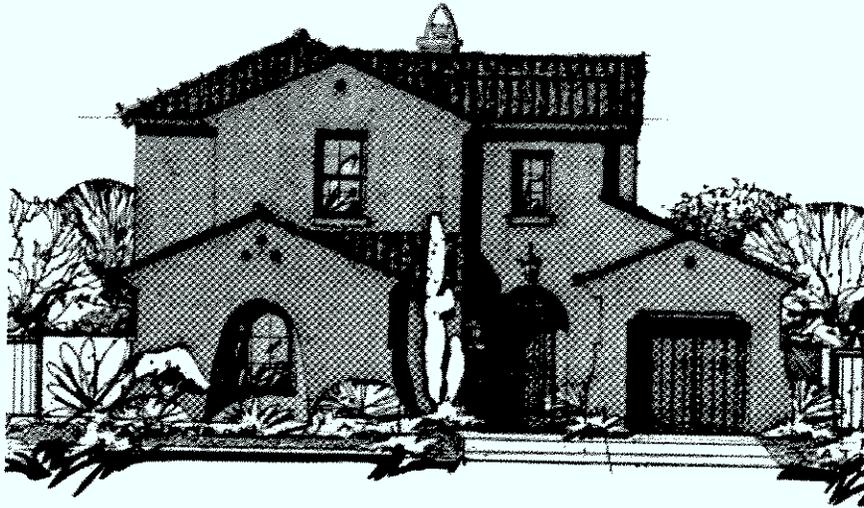
BARREL AND PLAT  
SHARPER ROOF TILES OR  
METAL ROOFING

EXPOSED RAFTER  
TAILS POSTS AND  
BEAMS



CARRIAGE 'STYLE' GARAGE  
DOOR





## SPANISH COLONIAL

Spanish colonial style has origins in Mediterranean Architecture with eclectic inspirations that range from Moorish to Byzantine. This Architectural style became popular in the Southwestern United States as an adaptation of the regions earlier historical Mission style along with the rich Latin American influences of the region. Most characterized by strong, simple, informal massing and is traditionally unified by light-colored thick stucco walls, courtyards, arches and red tile roofs.

### MASSING / FORM

- Informal plan arrangement
- Asymmetrical massing
- Courtyards, loggias and patios
- Simple one and two-story massing
- Low pitched predominately gabled rooflines
- Shallow or flush overhangs
- Thick walls and deep openings

### FINISHES / DETAILS

- Stucco exterior walls
- Sculptural stucco eaves
- Sculptural stucco chimneys
- Arched windows and openings
- Rustic wood-like rafter tails
- Decorative wrought iron details
- Clay tile gable end vents
- Optional carriage style garage doors

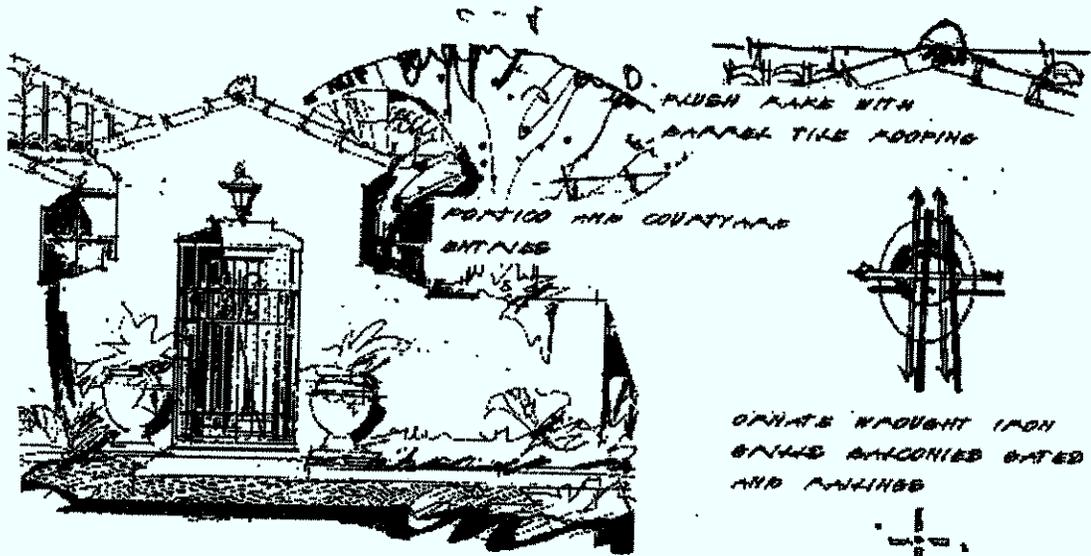


### MATERIALS / COLORS

- Light colored exterior walls
- Barrel style roof tiles  
Predominantly red clay color
- Divided windowpanes on front and street-side elevations

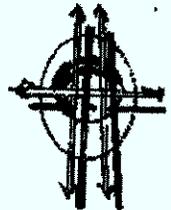


RESIDENTIAL DESIGN GUIDELINES



PORCH ROOF WITH  
BARREL TILE ROOFING

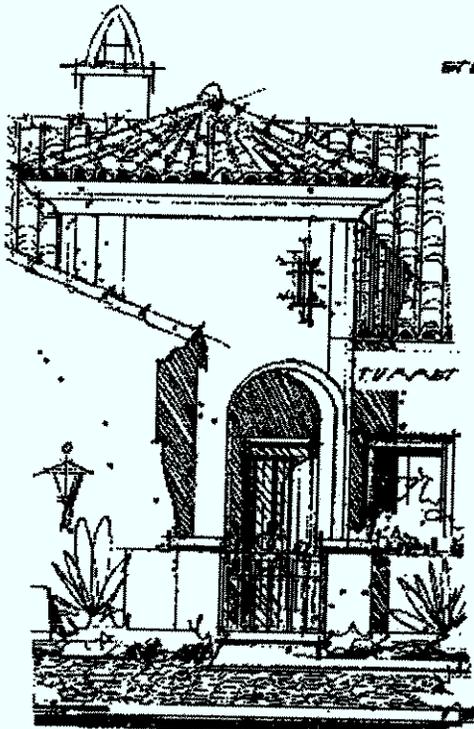
PORCH AND COURTYARD  
ENTRANCE



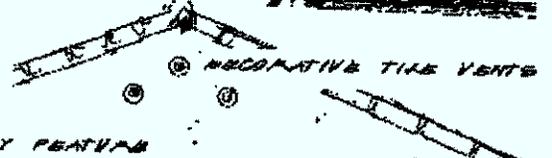
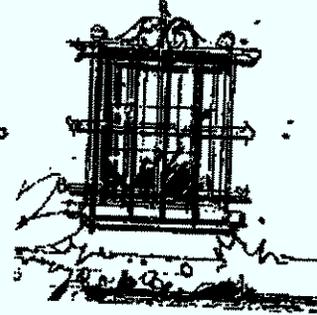
ORNATE WROUGHT IRON  
GATE BALCONIES GATED  
AND RAILINGS

RECREATIVE WALL RECESSES

SCULPTURAL STUCCO  
CHIMNEYS

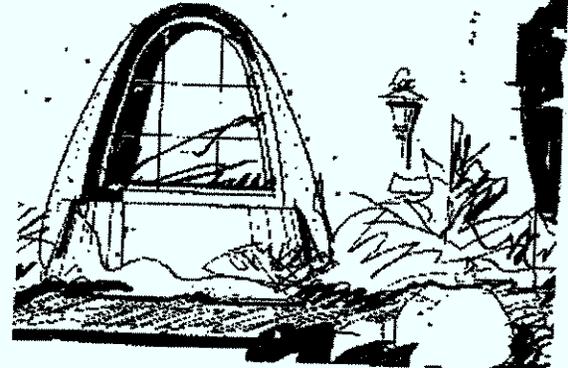


STUCCO EXTENSION WALLS



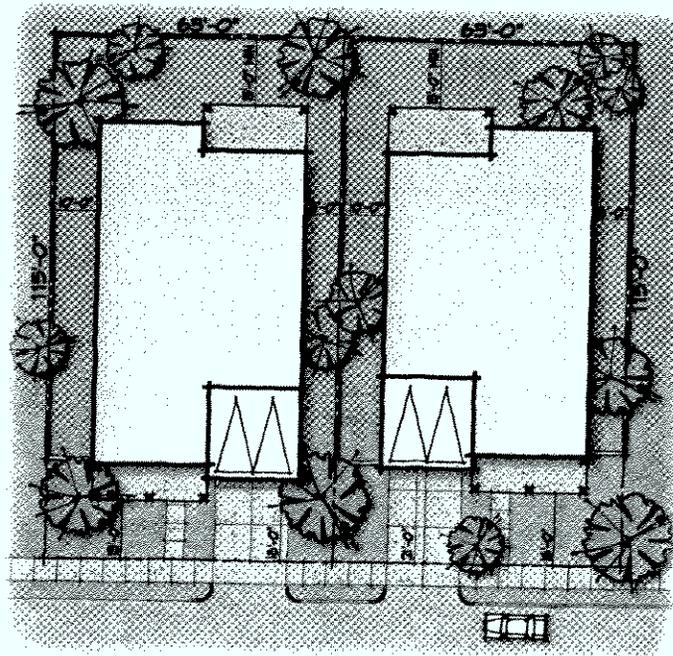
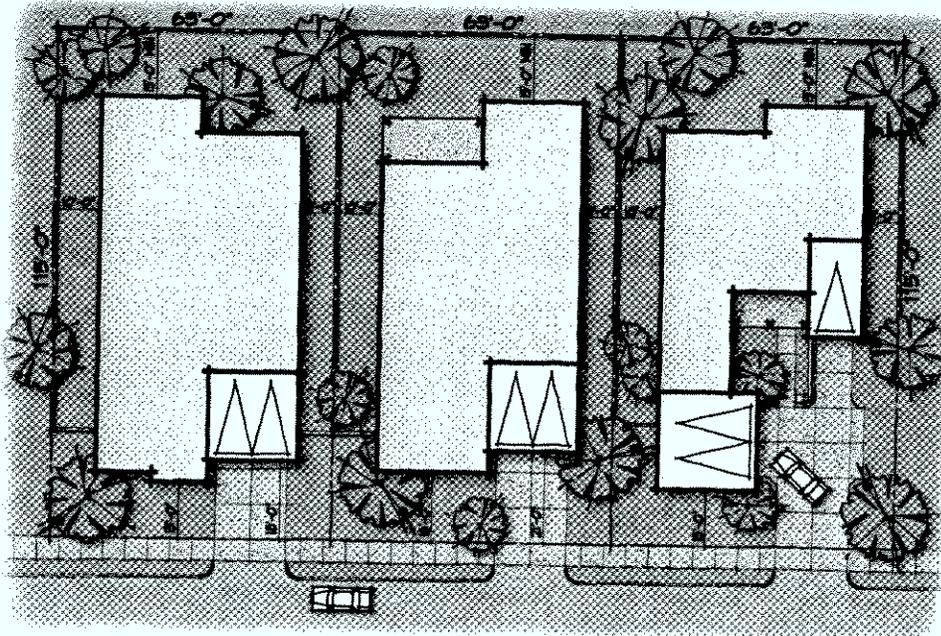
RECREATIVE TILE VENTS

TURRET ENTRY FEATURE



## Home Placements

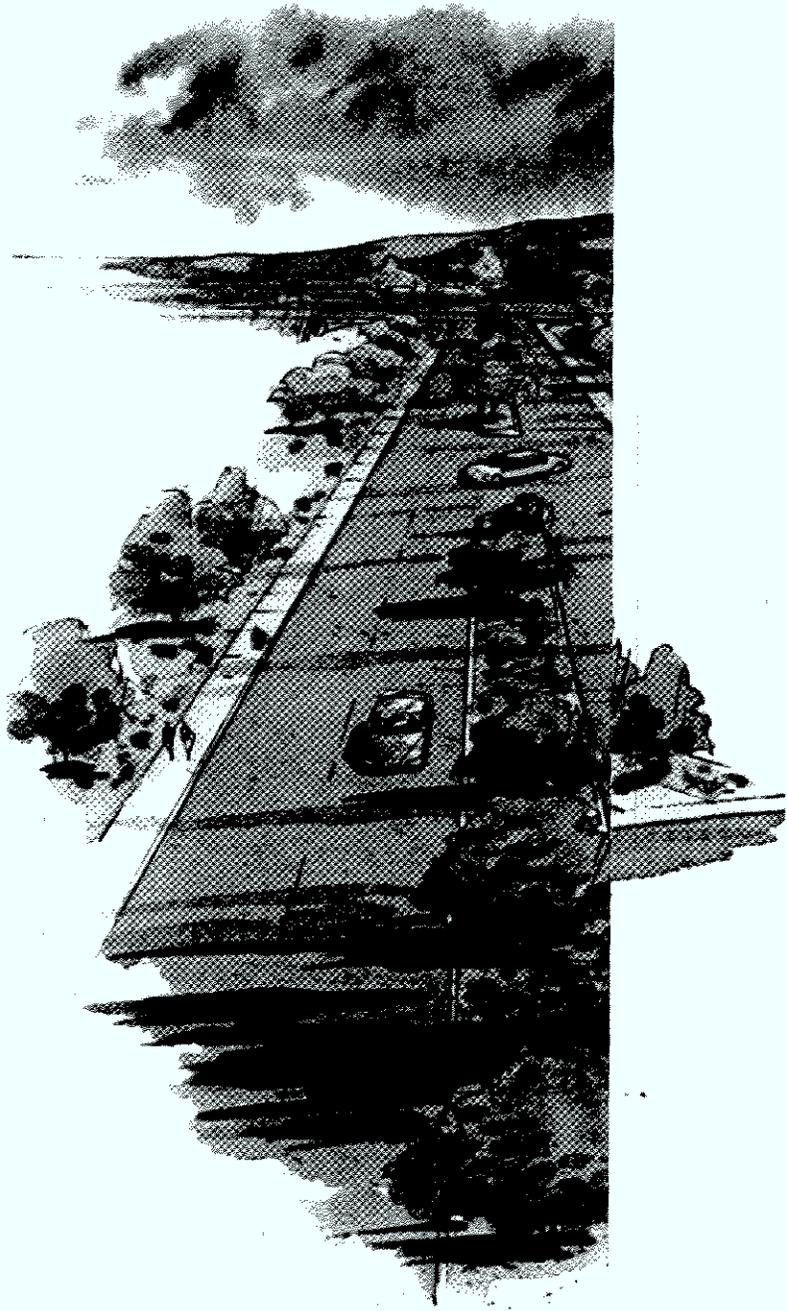
The following home placement diagrams are intended to demonstrate the diverse streetscape that can be created through the use of staggered front yard setbacks, side entry garages and covered front porches.



# Fleming Farms

Avondale, Arizona  
Planned Area Development District

## PERSPECTIVE VIEW - AVONDALE BOULEVARD

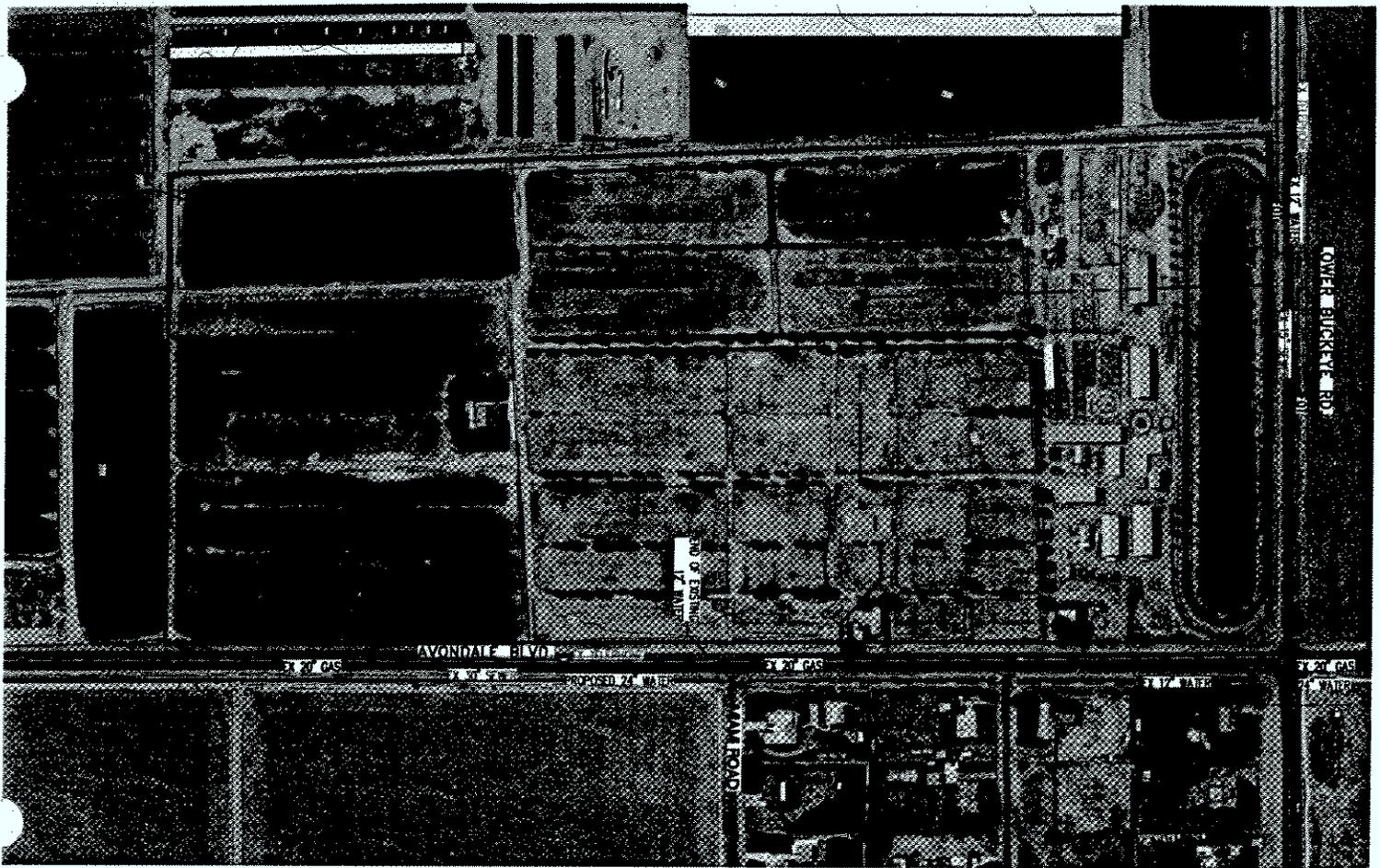


Project #: 50063-08  
August 2006

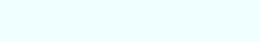
Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

Drawn By: STAFF





**Legend**

-  Project Boundary
-  Parcel Boundary
-  Existing Fiber Optic
-  Transcontinental
-  Existing Telephone
-  Existing 15" Sewer
-  Existing Gas
-  Existing 12" Water
-  Proposed 24" Water

# Fleming Farms

Avondale, Arizona

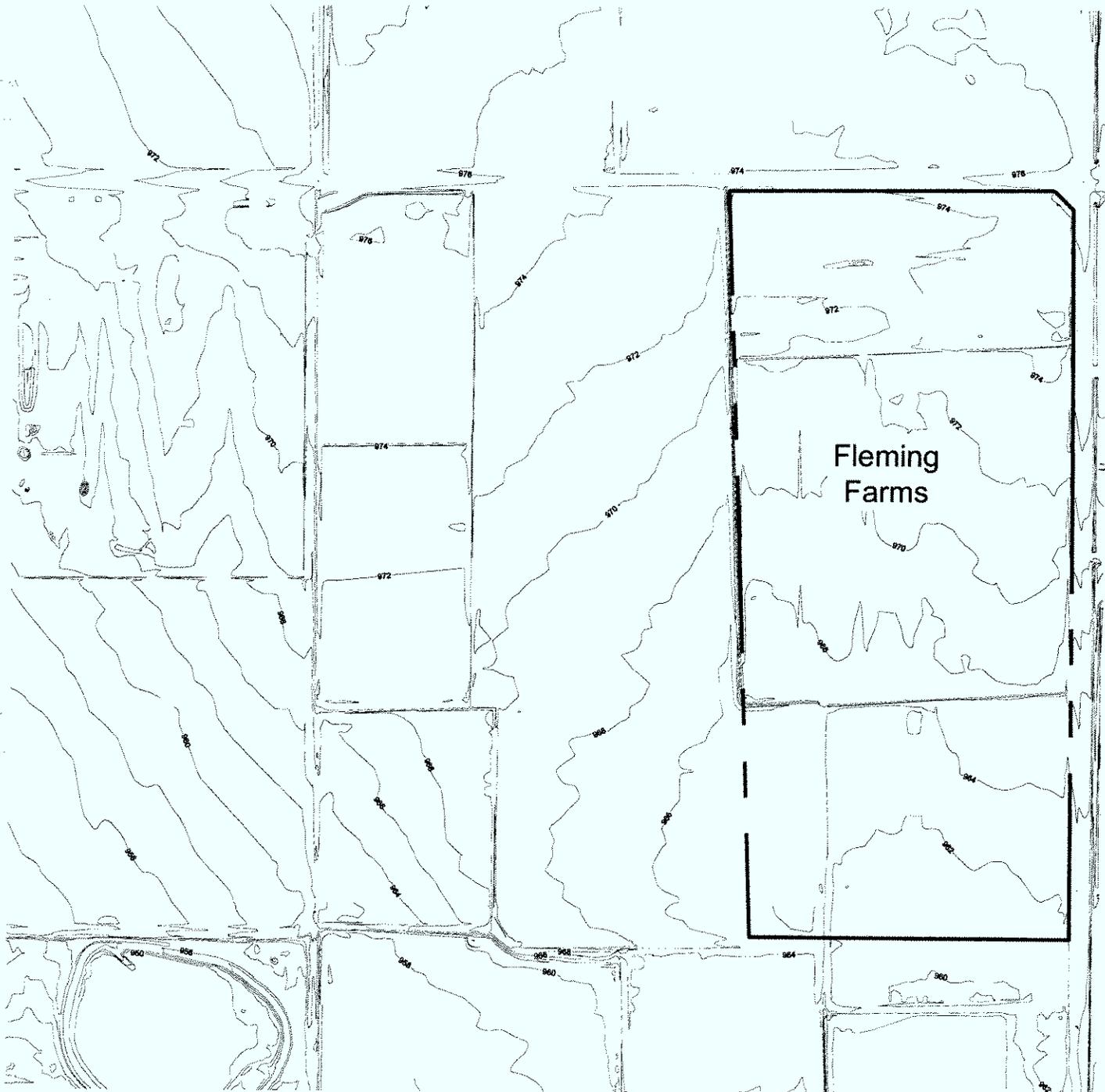
## Utilities Exhibit



CMX Project Number: 7204  
 Project Manager: S. Duplessis  
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 Aug 03, 2006 5:23pm



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Fleming Farms

# Fleming Farms

Avondale, Arizona

## Topography Exhibit

**Legend**

----- Project Boundary

CMX Project Number: 7204  
 Project Manager: S. Duplessis  
 U:\7204\7204\Planning\Exhibits\Submittals\PAD\3rd Submittal\7204-Topography Exhibit.dwg  
 Aug 03, 2006 5:10pm  
 © Copyright, CMX 2006 - This plan document set is the sole property of CMX. No alterations to these plans, other than adding "as-built" information, are allowed by anyone other than authorized CMX employees.





# EVERGREEN

REAL ESTATE DEVELOPMENT

2390 E Camelback Rd, Suite 410 - Phoenix, Arizona 85016 - P: 602.808.8600 - F: 602.808.9100  
200 N Maryland Ave, Suite 201 - Glendale, California 91206 - P: 818.240.8727 - F: 818.240.1823

August 17, 2005

Dr. Patricia A. Williams, Ed. D. Superintendent  
Littleton School District #65  
P.O. Box 280  
Cashion, Arizona 85329

**Re: School Agreement SWC Avondale Blvd. and Lower Buckeye Road**

Dear Dr. Williams:

Thank you for taking the time to meet with myself, Brett Heron, and R.T. Star, on August 16, 2005. This letter is to confirm our agreement that our provision of the school site in the "Hillcrest" project is sufficient to satisfy the impacts of both projects and that no financial contributions by the Fleming Farms project are warranted.

Following your review of this letter, we would appreciate your confirmation by your signature below. Your support of this project is greatly appreciated.

Sincerely,

Jacob Shephard  
Evergreen Communities, LLC

cc: Brett Heron, Evergreen Communities, LLC  
Dean Svoboda, City of Avondale  
Nathan Crane, City of Avondale

AGREED:

  
Patricia William, Ed. D.

**ADMINISTRATIVE CENTER**

9419 West Van Buren Street  
Tolleson, Arizona 85353  
623.478.4000  
FAX 623.936.5048  
WEB [www.tuhsd.org](http://www.tuhsd.org)

**GOVERNING BOARD**

Kimberly A. Owens, President  
Cindy Swan, V.P.  
Sandy Davis  
Barbara Maddux  
Mike Watson

**SUPERINTENDENT**

Kino V. Flores, Ed. D.

December 20, 2005

Brett Heron  
Evergreen Communities, LLC  
2390 E. Camelback Road, Suite 410  
Phoenix, AZ 85016

Dear Mr. Heron:

I have enclosed a signed copy of the TUHSD donation agreement with Evergreen Communities, LLC approved at our regularly scheduled board meeting on December 13, 2005.

On behalf of the Governing Board, the students of our district – current and future, as well as members of our school community as a whole, please accept my sincere thank you for your donation to the education of our children.

Growth brings many challenges; some good and some not so good. However, it makes it less painful for all when a developer appreciates the economic needs of the schools it impacts and helps to provide needed resources. This is truly the meaning of "being a good neighbor."

Again, it is with sincere gratitude that I thank you for this donation to our children.

Sincerely,

L. LeAnn Burns, CPA  
Assistant Superintendent  
For Business Services

Attachment

Copy: Dr. Kino V. Flores, Superintendent  
Mr. Nathan Crane, City of Avondale

Minutes of the regular meeting held September 5, 2006 at 7:00 p.m. in the Council Chambers.

**MEMBERS PRESENT**

Mayor Lopez-Rogers and Council Members

Chuck Wolf, Vice Mayor

Jim Buster

Frank Scott

Ken Weise

Jason Earp

Betty Lynch

**ALSO PRESENT**

Charlie McClendon, City Manager

Andrew McGuire, City Attorney

Dean Svoboda, Planning and Building Services Director

Rob Emmett, Utilities Director

Linda Farris, City Clerk

Mayor Lopez-Rogers called the meeting to order and led those present in the Pledge of Allegiance.

Mayor Lopez-Rogers asked those present to take a moment of silence in memory of all the victims of the 9-11 tragedy.

**9) PUBLIC HEARING – ORDINANCE 1999-906 – FLEMING FARMS PAD REZONING – Z-05-18**

A public hearing and consideration of an ordinance rezoning from AG (Agricultural) to PAD (Planned Area Development) 67 acres located at the southwest corner of Avondale Boulevard and Lower Buckeye Road.

Mr. Svoboda stated this is one of the first rezoning applications that the Council will have the opportunity to entertain in the area south of Lower Buckeye Road. He explained this is a request to rezone approximately 67 acres from AG (Agricultural) to PAD (Planned Area Development). He stated this property was annexed earlier this year. Mr. Svoboda stated that the City's General Plan for this area shows a combination of three land uses, residential at 1-2.5 units per acre and 2.5 – 4 units to the acre. He stated that the bulk of the property is indicated to be 2.5-4 units per acre. He stated there is also an indication for a neighborhood sized center at this corner. He stated that the proposal is in compliance with the current General Plan. He stated the site plan shows a 17 acre commercial parcel that would be intended for a neighborhood center and 50 acres of single family subdivision.

Mr. Svoboda explained that the commercial uses are similar to those in the C-1 (Neighborhood Commercial) district. He said automotive related uses such as tire installation, car washes, auto part stores and gasoline sales would require a conditional use permit. Drive thrus would require a conditional use permit. Major auto repair and

maintenance including painting and body work is prohibited. Convenience stores would require a conditional use permit as well as any retail uses over 100,000 square feet.

Mr. Svoboda stated that there will be a strong buffer provided from the residential lot, with different set backs provided for one and two stories. He stated they will also be double the width of normal landscape buffer between the residential and commercial. Mr. Svoboda indicated a master site plan will be required for the commercial site prior to development, which will be brought before the Planning Commission and then the City Council. He said the plan will address compatible architectural themes, building materials and colors, access, parking lot configurations, and signage among other requirements. He added that following approval of a master site plan, individual site plans may be submitted for administrative review and approval for each building within the commercial center.

Mr. Svoboda continued by stating that the PAD specifies the design standards for all buildings. The design standards are established to ensure that all buildings feature four-sided architecture. Examples of the architectural theme are provided in the PAD to display how the architecture of the commercial center can be compatible with the proposed architecture of the single-family residences.

Mr. Svoboda stated a 147-lot single family residential subdivision is being proposed with a maximum density of 2.96 dwelling units per acre. He stated there are three different lot sizes proposed. He stated front yard setbacks will be staggered at 18 feet and 21 feet. No more than two adjacent homes will be permitted to have the same setback. Mr. Svoboda explained that the applicant is requesting to allow front porches and side entry garages to encroach into the front yard setback up to five feet. Side yard setbacks will be a combination of 8 and 10 feet. Mr. Svoboda stated that the plat includes extra wide landscape track along both of the arterial streets. He explained that the rear yard setbacks will be at 15 feet, except for the lots adjacent to Lower Buckeye Road and Avondale Boulevard that require a minimum 30 foot setback measured from the right-of-way. The applicant is proposing two story homes allowed on lots adjacent to Avondale Boulevard and Lower Buckeye Road. He stated this would be a limited amount. Mr. Svoboda stated that this would be clarified in a stipulation and also mentioned a stipulation regarding notification to prospective home buyers regarding issues in the area.

Mr. Svoboda stated that access and circulation for the commercial parcel will accommodate driveways necessary to ensure safe traffic movement. He stated two access streets are proposed for the residential subdivision on Avondale Blvd and one access from 117<sup>th</sup> Avenue. He explained that there is currently an offset alignment of the property line at that location and there is also a fairly large irrigation structure. He stated as a result it makes it difficult for this developer to do half street improvements to 117<sup>th</sup> Avenue. Mr. Svoboda stated that the solution is that they will do a full street improvement on the north half of 117<sup>th</sup> Avenue and when the Pyleman property develops to the west, they will do a full street improvement to the south half.

Mr. Svoboda explained that the PAD specifies design standards for all residential developments. Four sided design is required for each house. Three architectural themes have been chosen for the development: Monterey, Territorial Ranch, and Spanish Colonial. The PAD outlines key features for each architectural style in terms of massing, finishing details, and allowed materials. To further ensure architectural variety the PAD specifies that no more than 50% of the residences may be of the same floor plan or architectural style.

The theme wall along the perimeter of the subdivision will utilize a combination of smooth and split faced CMU block with columns accented with stone veneer repeated every 300 feet. All community walls adjacent to Avondale Boulevard and Lower Buckeye Road will be 8-feet in height. Stone veneer will be included on the theme wall columns, the entry monuments, trellis features, and community ramadas.

Mr. Svoboda stated that overall the staff believes the PAD meets the objectives of the General Plan and will result in compatible land use. He stated that it meets and in some cases exceeds the PAD requirements.

Mr. Svoboda stated that the Planning Commission conducted a public hearing on July 20, 2006 and voted 6-0 to recommend approval of this request subject to 24 stipulations. He stated that staff is also recommending approval. He explained that there were modifications made to the stipulations such as rewording and dates changes after the meeting. He added that with regard to Exhibit I, Stipulation #3 should include that "mini storages should NOT be permitted." He stated that staff would like to add Stipulation #24: "Two story homes shall not be located on adjacent lots along Avondale Boulevard and Lower Buckeye Road." This language is included in the PAD and would be part of the approval regardless. This has been added to ensure the requirement is followed. He offered to answer questions from the Council.

Council discussed this proposal and asked questions. They discussed the monuments, and the depth of the planter. Council agreed to amend stipulation 17 to require that the developer also notify potential buyers of the school and public safety facility nearby.

The Council also discussed the hours of operation and the requirement for CUPs for some commercial uses. The Council discussed the entries into the developments, where a signal might be located in the future, bus bays, automotive uses, drive through uses, housing models and sprinklers. Council also discussed lot 48 and what might be done with it. Council discussed streetscapes and two story homes and the location of utility boxes.

Mayor Lopez-Rogers called on the applicant.

Ed Bull, representing Evergreen, stated he appreciates the Planning Commission's unanimous recommendation for approval. Mr. Bull stated they accept all the Planning Commission's recommended stipulations and also accept Stipulation #24 added this

**Minutes of the Regular Meeting held September 5, 2006**

**Page 4**

evening. He stated they also agree to the modification to Stipulation 17. He addressed Council's questions beginning with the depth of the planter. He assured the council it would be at a depth that is meaningful. Mr. Bull stated that regarding the hours of operation mentioned in the staff report, he emphasized a use permit is a compatibility test. Mr. Bull stated that sprinklers in the homes would be an option and available to the home buyer. With respect to lot 48, he stated that they will work with staff in order to determine the best use for this lot. With respect to the one story vs. two story home along the arterial, a two story home would have a one story home on either side. He felt this would provide a great deal of streetscape interest with saw-toothing, different lot sizes and shapes, and widen landscaping. He concluded by stating that Evergreen is very interested in quality.

Council expressed concern regarding automotive related uses and discussed the request for 50% lot coverage.

Mayor Lopez-Rogers opened the public hearing.

Dr. Christina Curtis, resident of Avondale, stated that the commercial pad should be made into a park. She stated there are commercial pads planned for the other nearby corners. She suggested the lighting be kept at a low level. She suggested every street be lined with trees.

Mr. Bull said that the requested land uses are in conformance with the General Plan. He said there is a master site plan approval process for lighting.

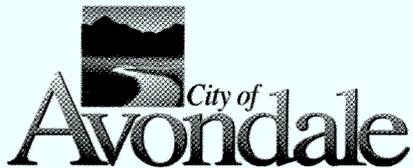
Mayor Lopez-Rogers closed the public hearing.

Vice Mayor Wolf moved to approve Z-05-18 with the revised 24 stipulations. Council Member Weise seconded the motion.

**ROLL CALL VOTE AS FOLLOWS:**

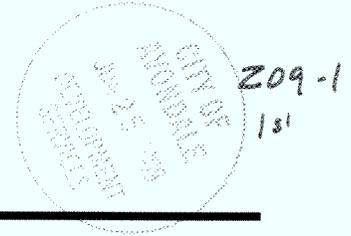
Council Member Earp	Aye
Council Member Scott	Aye
Council Member Buster	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor Wolf	Aye
Council Member Lynch	Aye
Council Member Weise	Aye

Motion carried unanimously.



## PAD AMENDMENT NARRATIVE

### Fleming Farms PAD (Submitted June, 25 2009)



#### I. Location

- **Nearest intersecting streets of the property.**

*Avondale Boulevard and Lower Buckeye Road*

- **Size of the property (acreage).**

*Residential: Fleming Farms, Lot 2 = 49.82 acres (net of dedicated arterial ROW)  
Commercial: Fleming Farms, Lot 1 = 16.63 acres (net of dedicated arterial ROW)*

#### II. History

- **Date annexed.**

*April 17, 2006 – Ordinance No. 1180-406*

- **Date zoned to Planned Area Development (PAD).**

*September 5, 2006 – Ordinance No. 1999-906*

- **Subsequent action(s) with staff, the Planning Commission or City Council after zoning to PAD. List all dates. Be sure to list all approvals.**

*Preliminary Plat and Landscaping Plans*

- Approved by Planning Commission – June 21, 2007*
- Approved by Council – July 16, 2007*

*Fleming Farms Final Plat (Bulk Plat/Map of Dedication)*

- Approved by Council – April 21, 2008*
- Recorded – May 28, 2008 (Book 989 Page 41; 2008-0465698)*

*Fleming Farms Final Plat (Lot 2 – Residential Subdivision):*

- Approved by Council April 21, 2008*
- Recorded - June 19, 2008 (993 Page 41; 2008-0544093)*

*Final Construction Documents (Including all civil engineering, electrical and street lighting, landscaping, and traffic engineering reports)*

- 1<sup>st</sup> Submittal – October 2007*
  - City Review Comments Received – November 2007*
- 2<sup>nd</sup> Submittal – March 2008*
  - City Review Comments Received – April 2008*

- g) MCDOT Approval of Offsite Plans – April 1, 2009
- h) 3<sup>rd</sup> Submittal – May 7, 2009
  - a) City Review Comments Received May 11, 2009
- i) Onsite and Offsite Street Light Plan Approval – May 11, 2009
- j) All Onsite Civil Plans Approved – May 11, 2009
- k) Offsite Sewer Plans Approved – May 11, 2009
- l) Onsite and Offsite Landscape Plans Approved – May 13, 2009

*Current Status: Evergreen is currently working on the final revisions to the Offsite Paving and Water plans (as requested by the City in their comment letter dated May 11<sup>th</sup>, 2009). It is expected that the revised plans will be submitted to and approved by the City within the next 30 days. With these forthcoming approvals, all construction plans for the development of the residential subdivision and offsite improvements will have been approved.*

### **III. Request & Justification**

- **State each development standard that is being requested to be amended.**

*A one year extension of the approved PAD is being requested as provided for in Section 6 of City's Zoning Ordinance. The extension request includes a revised Development Plan that reflects the current condition of the economy and real estate marketplace.*

- **Provide a justification for each development standard that is being amended.**
  - **Why is this amendment needed?**

*The requested one year extension of the Fleming Farms PAD will allow for sufficient time to obtain the remaining civil design plan approvals and provide adequate time to schedule and commence construction of the necessary improvements as required by Section 6 of the City's Zoning Ordinance. This project needs further stability in the marketplace and a return of consumer confidence in housing in order to be successful and deliver what is currently envisioned.*

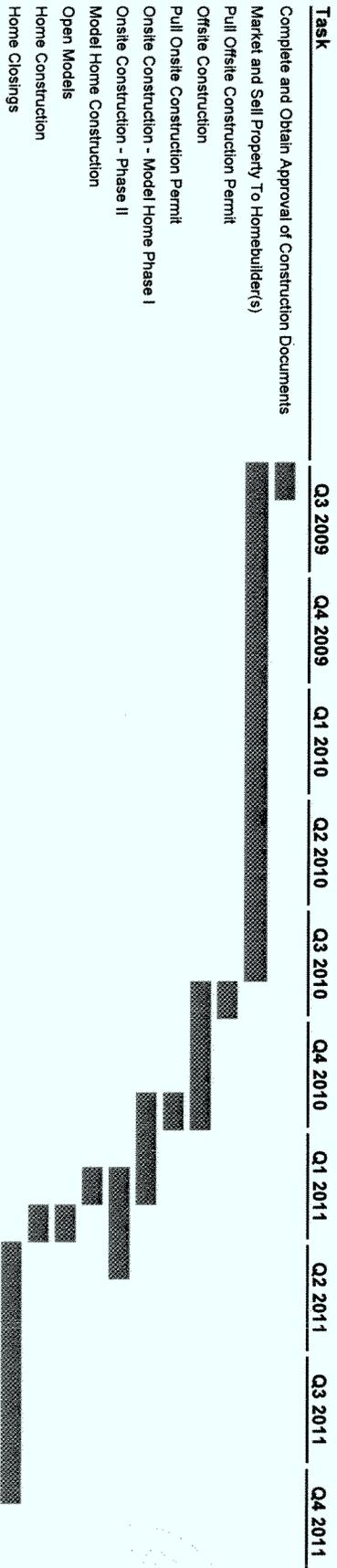
- **What positive affects will this amendment have on the existing development, the future development and the surrounding properties?**

*The approval of this amendment will benefit the project by preserving the value of existing entitlement approvals and will improve the chance that it will be constructed as planned. Future development, surrounding properties and the City will benefit from the ultimate development of this project as it will bring the type of development that the City wants to have in this area as defined in the General Plan. The project will conceivably enhance the property values of the surrounding area and result in increased tax revenues to the City.*



EVERGREEN

# Fleming Farms - Residential Projected Development Schedule REVISED FOR PAD EXTENSION - 2009



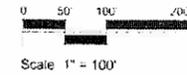
Notes:  
Schedule is estimated and subject to market conditions and demands.

209-1  
1st

# Fleming Farms

Avondale, Arizona  
Planned Area Development District

## CONCEPTUAL LANDSCAPE OPEN SPACE PLAN



### WATER CONSERVATION NARRATIVE

The landscape vision for the Fleming Farms residential development will be grounded in the agrarian tradition. The concept for the streetscape design will consist of a rhythmic placement of trees along streets and a lush and formal understory planting of flowering shrubs with turf groundcover. We have chosen low water-use drought tolerant plant material for the entire project. The trees chosen will be Dalbergia Sissoo, Alocasia, Live Oak, and Pistache to set the theme of our tree lined streets. We will then use native desert trees such as the Sweet Acacia, Mesquite, and Palo Verde to accent unique areas and entries along with colorful flowering plantings such as Leucophyllum, Ruellia, Red Yucca and Penstemon.

We will utilize shade trees to create private Bosque's and shaded areas around the perimeter of the turf for passive activities such as picnicking or reading a book, while leaving the "central area" of turf open for active recreation. In addition, open space planting will consist of our desert trees planted in groupings. We will cluster shrubs and groundcovers to give a lush feel while minimizing plant costs and water use. Succulents and grasses will be utilized in key areas to create variety and unique points of interest throughout the landscape.

### Site Data

Parcel	Tract	Area (sq ft)	Area (Ac.)	Description	Active Open Space (sq ft)	Active Open Space (Ac.)
2	A	13,005.57	0.30	Landscape, Drainage		
2	B	3,652.50	0.08	Landscape, Trail	3,652.50	0.08
2	C	11,153.24	0.26	Landscape, Trail, Amenity	11,153.24	0.26
2	D	27,207.16	0.62	Landscape, Drainage		
2	E1	13,716.90	0.31	Landscape, Drainage		
2	E2	24,228.30	0.56	Landscape, Drainage		
2	E3	157,469.38	3.61	LS, Drainage, Trail, Amenity	157,469.38	3.61
2	F	2,200.00	0.05	Landscape		
2	G	4,575.00	0.11	Landscape, Trail	4,575.00	0.11
2	H	6,975.00	0.16	Landscape		
2	I	2,100.00	0.05	Landscape		
2	J	9,326.16	0.21	Landscape, Trail	9,326.16	0.21
2	K	2,101.31	0.05	Landscape		
2	L	39,541.70	0.91	Landscape, Drainage		
2	M	13,430.76	0.31	Landscape, Trail	13,430.76	0.31
2	N	2,158.16	0.05	Landscape		
2	O	76,909.37	1.77	LS, Drainage, Trail, Amenity	76,909.37	1.77
2	P	1,049.27	0.02	Landscape		
2	Q	765.50	0.02	Landscape		
<b>Parcel 2 Subtotal:</b>					<b>411,824.38</b>	<b>9.46</b>
<b>Active/Passive Open Space</b>						
Parcel	Active O.S.		Passive O.S.		Total	
Parcel 2	6.36 Ac		3.10 Ac		9.46 Ac	
Percent	12.80%		6.20%		19.00%	

### PLANT LEGEND

SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE	SYMBOL	BOTANICAL / COMMON NAME	SIZE
	ACACIA FARNESIANA SWEET ACACIA	24" BOX		BOUTANVILLEA B. KARST B. KARST BOUGAMVILLEA	5 GAL		VIGNERA DELTOIDEA GOLDEN EYE	5 GAL		AGAVE ATTENUATA FOXTAIL AGAVE	5 GAL		AGACIA RELIQUINA DESERT DARTER ACACIA	5 GAL
	CORYMBIA PANICOLA PALO VERA	15 GAL		CAESALPINIA GILLESII YELLOW BIRD OF PARADISE	5 GAL		HARDENBERGIA VIOLACEA PURPLE LEAC	5 GAL		AGAVE AMERICANA VAR. MEDIO PICTA WARGATE AGAVE	5 GAL		BACCHARIS HYPERICIFOLIA STARRY	5 GAL
	DALBERGIA SISSOO SISSOO TREE	24" BOX		CALLANDRA MARICOPA RED MARCOPA RED CALLANDRA	5 GAL		ROSMARINUS OFFICINALIS DWARF ROSEMARY	5 GAL		LEUCOPHYLLUM GILGALLOIDA GONNIM PLAN	5 GAL		LEUCOPHYLLUM MEXICANA DWARF YUCCA	1 GAL
	CHALCIPHYS SPICATA DESERT WILLOW	24" BOX		CALLANDRA ERIOCHRYSA PINK FAIRY DUSTER	5 GAL		RUPELLIA BRITTONIANA PURPLE RUPELLIA	5 GAL		HELBESPERIA FLORENTINA RED YUCCA	5 GAL		CONYLIUM TENUICORNIS BUSH MORNING GLORY	5 GAL
	PISTACHIA CHINENSIS CHINESE PISTACHE	24" BOX		CALLISTEMON V. LITTLE JOHN'S DWARF BOTTLE BRUSH	5 GAL		RUPELLIA BRITTONIANA CH. CH. PINK RUPELLIA	5 GAL		MULLEBERGIA CAPSAICARIA DEER GRASS	5 GAL		ERUA GREGGII TRAILING MEXICO BUSH	5 GAL
	PROSOPIS CHINENSIS CHINESE MESQUITE	24" BOX		DALIA FRUTESCENS BLACK DALEA	5 GAL		RUPELLIA BRITTONIANA KATIE PURPLE DWARF RUPELLIA	5 GAL		MULLEBERGIA PURPUREA DEER GRASS	5 GAL		LANIARIA SP. TRAILING LANTANA	1 GAL
	QUERCUS LYROMIANA SOUTHERN LIVE OAK	24" BOX		DODONAEA VISCOSA PURPUREA PURPLE HOPBUSH	5 GAL		RUPELLIA MARRUBIFOLIA BUTTERFLY BUSH	5 GAL		YUCCA FLORIBUNDA SPINELEDS YUCCA	5 GAL		WYVORUM PARIETARIUM DWARF MYSORUM	5 GAL
	LEUCOPHYLLUM EVERGREEN ELM	24" BOX		HYPTIS EMORYI DESERT LAVENDER	5 GAL		SOPHORA SECUNDIFLORA MISCAL BEAN	5 GAL		PERENNIALS			BUSMARRIUS BRITTONIA TRAILING ROSEMARY	5 GAL
				LEUCOPHYLLUM LAEVIGATUM CHIHUAHUA SAGE	5 GAL		ECODIA STANS VAR. ANGUSTIFOLIA ARIZONA YELLOW BELLS	5 GAL		BAILEYA MULTIRADIATA DESERT MARIGOLD	1 GAL		VERBENA PERUVIANA PERUVIAN VERBENA	1 GAL
				LEUCOPHYLLUM LANGMANIAE RO BRAVO SAGE	5 GAL					FRANCOISIA AGALICE ANGELICA BUSH	1 GAL		WUEFELIA TRIMATA YELLOW DOTS	1 GAL
				LEUCOPHYLLUM FRUTESCENS LYNN'S LEGACY SAGE	5 GAL					PENSTEMON PARVIFLORUS PARRY'S PENSTEMON	1 GAL		TURF CYNODON DACTYLON CELEBRATION	

NOTE:  
ALL TREES IN SITE LINES SHALL CONFORM TO AASHTO VISIBILITY TRIANGLES ON ALL ARTERIAL CONNECTIONS



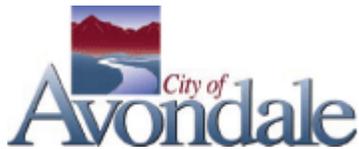
Project #: 50063-09  
August 2006

Project Manager: RP  
Designed By: STAFF  
Graphics By: STAFF

Drawn By: STAFF



### Location Map



# DEVELOPMENT SERVICES

**SUBJECT:**  
Public Hearing - PAD Zoning Extension - Avondale  
Marketplace PAD zoning (Z-09-3)

**MEETING DATE:**  
August 10, 2009

**TO:** Mayor and Council  
**FROM:** Brian Berndt, Development Services Director (623) 333-4011  
**THROUGH:** Charlie McClendon, City Manager (623) 333-1015

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**REQUEST:** Extend the period allowed for commencement of development within the Avondale Marketplace PAD for one year from the date of the expiration of the previous extension, until March 20, 2010.

**PARCEL SIZE:** 54.53 Net Acres

**LOCATION:** Northwest corner of Avondale Boulevard and McDowell Road (Exhibits A and B)

**APPLICANT:** Mr. Blake Carroll, Troast Properties (602) 317-6170

**OWNER:** Multiple Owners: Mr. Gregory P. Troast, Troast Properties of Arizona (480) 390-4162;  
Mr. Lewis Patrick, Patrick Properties, Incorporated (480) 905-9180

## **BACKGROUND:**

The subject property was annexed on February 21, 2006 and subsequently rezoned from AG (Agricultural) to PAD (Planned Area Development) on March 20, 2006. The approved Avondale Marketplace PAD allows for a horizontally integrated mixed-use development which includes parcels devoted to retail, office, mini-storage, and high density residential uses. The General Plan and Freeway Corridor Specific Plan land use designations for this property are mixed-use. The approved PAD remains consistent with these General Plan and Freeway Corridor Specific Plan designations.

Under the City of Avondale's previous Planned Area Development Ordinance, developers were allowed two years from the date of PAD approval to commence development of the first development unit. The PAD was originally set to expire on March 20, 2008. A one year time extension until March 20, 2009 was approved by the City Council at the February 4, 2008 Regular Meeting.

Shortly after approval of the first PAD extension, a Master Site Plan for the commercial portions of the Avondale Marketplace PAD was approved by the City Council on March 17, 2008. A request to extend the validity of the site plan for an additional year is scheduled to be heard directly after this item.

On March 2, 2009, a revised PAD Ordinance was adopted by the City Council. The revised Ordinance allows developers up to three years to commencement development on a site and clarifies that the City Council may grant up to four one year extensions of the time condition.

The applicant submitted their second request to extend the PAD on February 11, 2009, prior to expiration of the PAD on March 20, 2009. Because the time extension request was applied for prior to the date of expiration, the City Council may extend the PAD time condition one year from the date

of expiration, until March 20, 2010. Should no development occur prior to that date, the PAD will be eligible for a total of two additional one year extensions under the conditions of the new PAD Ordinance.

### **SUMMARY OF REQUEST:**

The applicant is requesting that the City Council grant a one-year extension for the Avondale Marketplace PAD approval to allow Troast Properties additional time to secure tenants for the retail center. If required, future extensions will be evaluated in the same manner as this request.

### **ANALYSIS:**

#### *Conformance with General Plan and Freeway Corridor Specific Plan*

The property is designated as Mixed Use by the General Plan and lies within the "McDowell Road Corridor" as detailed in the Freeway Corridor Specific Plan (FCSP). Subsequent to the PAD approval in 2006, the FCSP was amended to allow buildings up to 10 stories on the subject property. The amendment to the FCSP did not impose any minimum building heights on the property, and the 30' maximum building height allowed by the PAD remains within the acceptable range. All permitted and conditional uses listed in the PAD are still considered appropriate for a property designated as Mixed Use by the General Plan. The PAD also remains in conformance with the "Boulevard Streetscape" requirements for properties within the McDowell Road Corridor. In summary, the PAD remains in complete conformance with both the General Plan and Freeway Corridor Specific Plan.

#### *Conformance with the Zoning Ordinance and Design Manual*

The approved PAD is in substantial conformance with Zoning Ordinance and Design Manual standards, as follows:

- Minimum building setbacks required by the PAD exceed minimum requirements for comparable zoning districts with the following exceptions:
  - 1) The approved PAD requires a 25 foot building setback between a commercial building and a residential property line; the Zoning Ordinance now requires a 50 foot setback in the comparable C-2 (Community Commercial) Zoning District.
  - 2) The residential sub-area does not have a zoning district in which a direct comparison can be made. The PAD allows for an attached single family residential product, commonly referred to as townhomes. Although the setbacks and lot size minimum requirements do not conform to any of Avondale's residential districts, the standards and design requirements for the residential subarea of the PAD are strong and will result in a livable townhome neighborhood.
- The approved PAD allows for schools and educational institutions within the commercial subareas. Schools were removed as a permitted use in the comparable C-2 (Community Commercial) Zoning District when Section 3 was revised in 2008. All other uses listed in the PAD as permitted, permitted subject to conditions, or permitted with a Conditional Use Permit remain consistent with the C-2 District.
- The approved PAD requires all off-site infrastructure improvements on the perimeter of the site to be completed in the first phase of development. This requirement is consistent with the recently revised PAD Ordinance (Zoning Ordinance Section 6).
- The approved PAD directly references the Zoning Ordinance in terms of specifying required landscaping. This language ensures that the PAD will always be in conformance with the most current landscaping requirements; any new site plan submitted for the property (i.e. residential parcel) will be required to meet the new requirements. The approved master site plan is

specifically exempt from new landscape requirements by a provision within the new Landscaping and Walls Ordinance.

- The PAD was approved prior to the adoption of the Design Manuals, however it does contain several pages of design requirements included to ensure a quality development.
- The PAD meets or exceeds all other Zoning Ordinance minimum requirements, including but not limited to parking, screening, and signage.

### *Conclusion*

Because the uses and development standards contained within the Avondale Marketplace PAD are in conformance with current Zoning Ordinance standards, staff recommends that the expiration date of PAD zoning be extended without additional conditions or changes. The applicant's vision for the project remains consistent with the City's goals for the McDowell Road Corridor.

### **RECOMMENDATION:**

Staff recommends that the City Council approve the time extension request for the Avondale Marketplace PAD for one year from the date of expiration, until March 20, 2010.

### **PROPOSED MOTION:**

I move that the City Council **GRANT** a time extension for the Avondale Marketplace Planned Area Development (PAD) for one year from the date of expiration, until March 20, 2010.

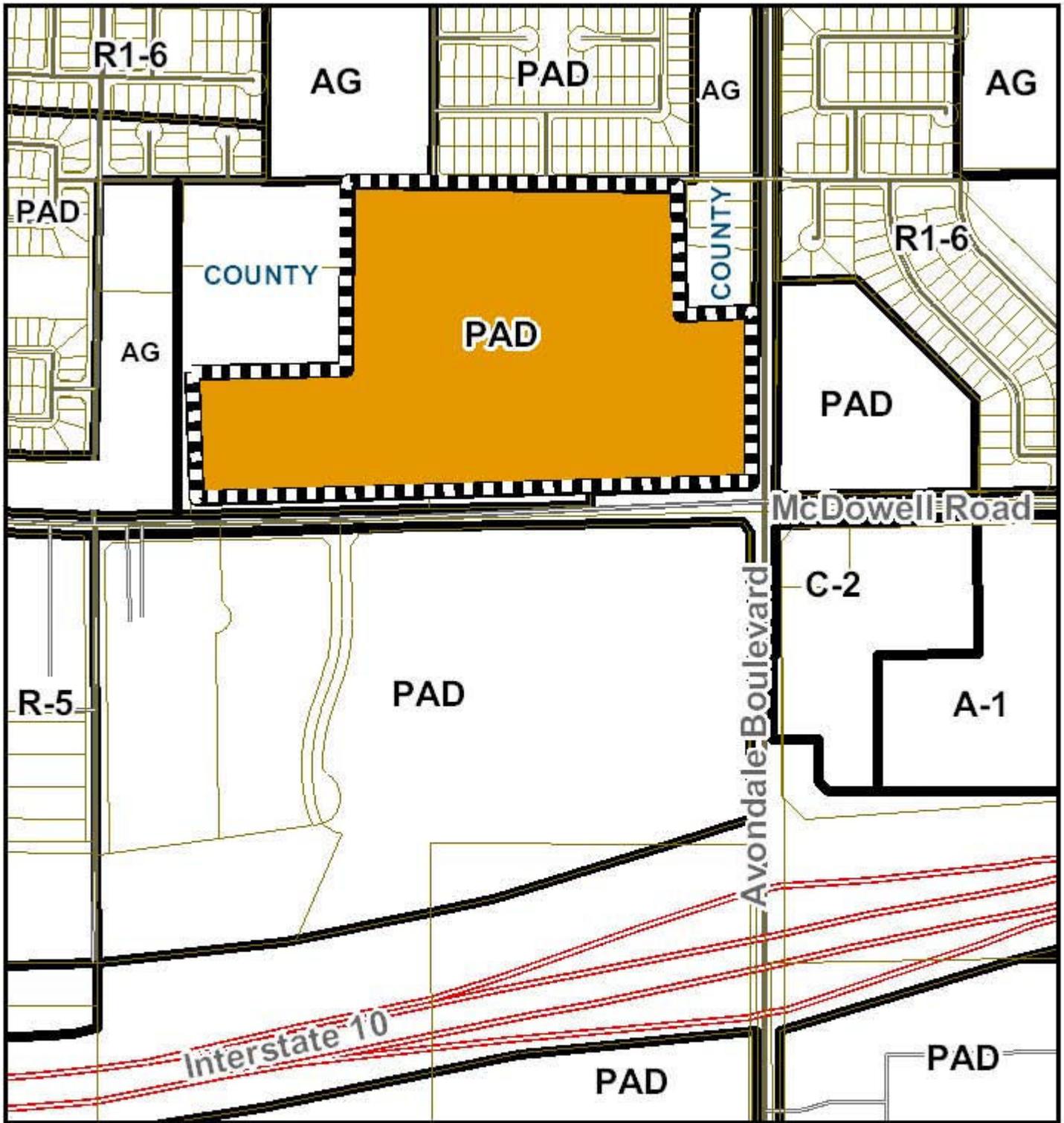
### **ATTACHMENTS:**

Click to download

- 📄 [Exhibit A - Zoning Vicinity Map](#)
- 📄 [Exhibit B - Aerial Photograph](#)
- 📄 [Exhibit C - Applicant's PAD Extension Request, letter dated February 11, 2009](#)
- 📄 [Exhibit D - Approved Avondale Marketplace PAD](#)
- 📄 [Exhibit E - Ordinance 1165-106 \(Approving the Avondale Marketplace PAD\)](#)
- 📄 [Exhibit F - Excerpt from City Council Minutes, Regular Meeting of March 20, 2006](#)
- 📄 [Exhibit G - Summary of Related Facts](#)

### **PROJECT MANAGER:**

Ken Galica, Planner II (623) 333-4019

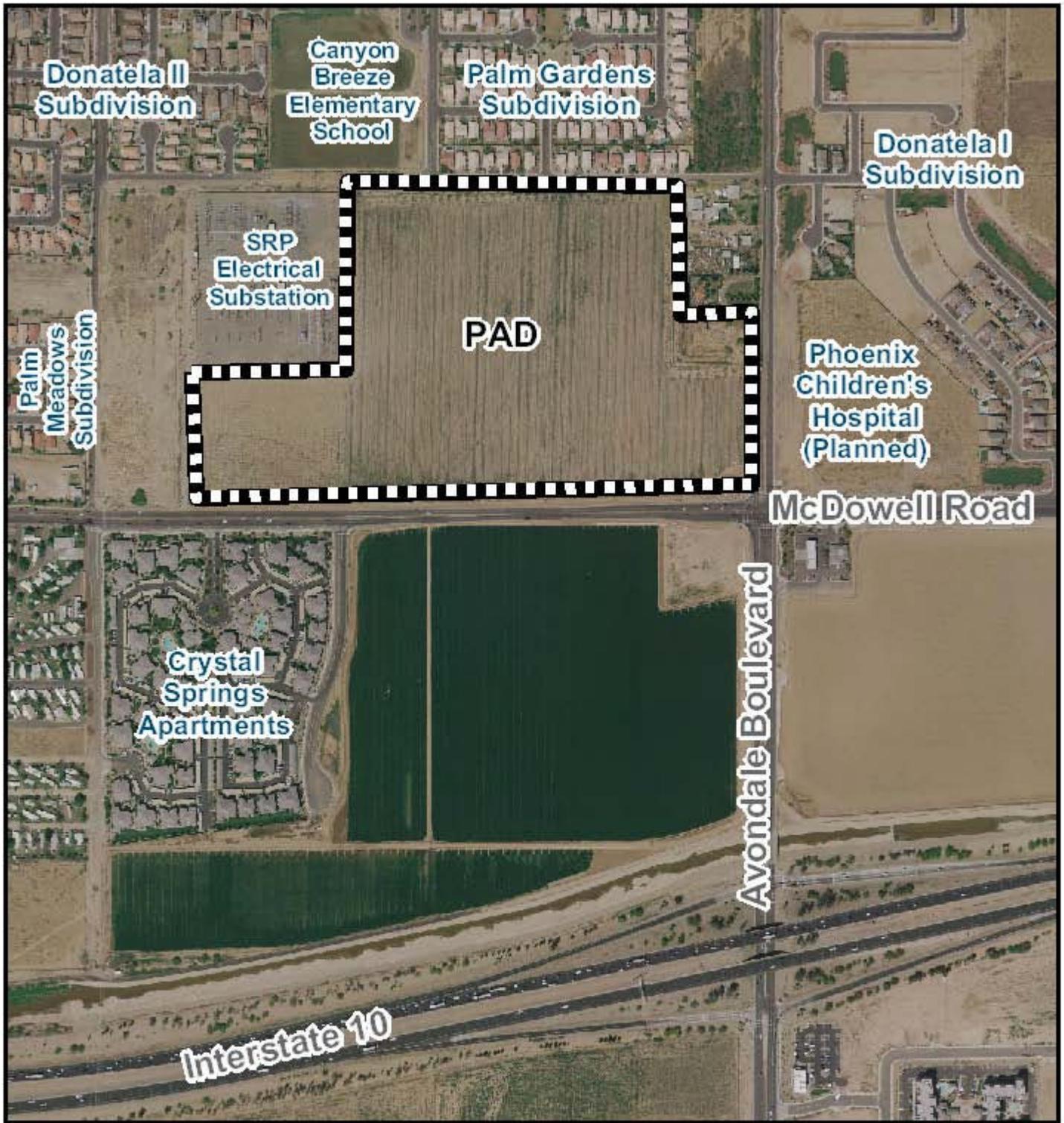


### Zoning Vicinity Map

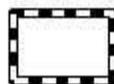


Subject Property





2008 Aerial Photograph



Subject Property





February 11<sup>th</sup>, 2009

City of Avondale  
Planning and Building Services  
Attn: Ken Galica  
11465 W. Civic Center Drive, #110  
Avondale, AZ 85323

RE: Avondale Marketplace PAD Zoning Extension

Mr. Galica:

Pursuant to the City of Avondale's PAD Zoning Extension Checklist, this letter is to provide an explanation of why Avondale McDowell Marketplace LLC is in need of an extension on our Zoning.

Over the past year we have been working diligently with our marketing team to come up with additional tenants for our Development, but due to current market conditions, it has made it very difficult to get solid commitments from user groups. Coupled with the fact marketing in general has slowed, the bank we had financing our project failed and was taken over by the FDIC. At no fault of our own we were put in this position by our lender, but we have since come up with alternate financing for the Development.

A Zoning Extension would allow us to continue with the Development we have put a great deal of time and effort in, to ultimately be a successful venture.

Sincerely,

A handwritten signature in black ink that reads "Gregory P. Troast". The signature is written in a cursive style.

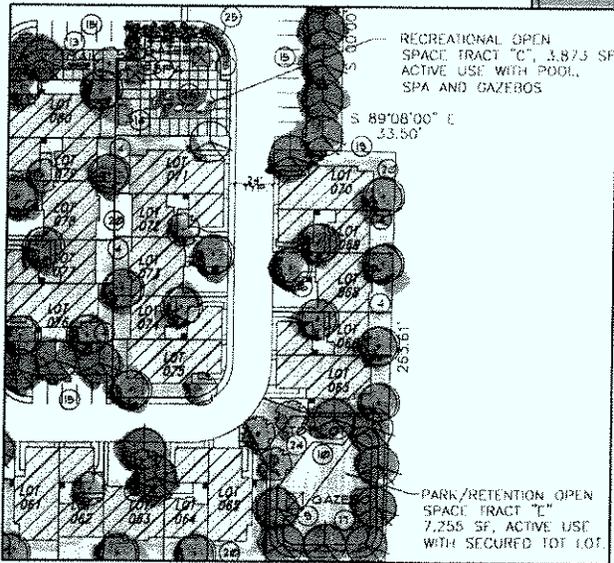
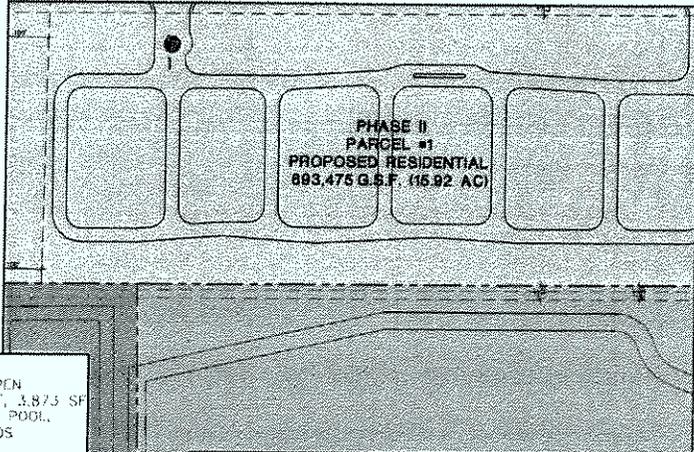
Gregory P. Troast  
Managing Member

# Avondale Marketplace

## Avondale, AZ

NWC Avondale Boulevard and McDowell Road

### Planned Area Development District



PROJECT NAME:  
**AVONDALE MARKETPLACE**  
RETAIL CENTER  
N.W.C. of McDOWELL ROAD &  
AVONDALE BOULEVARD  
AVONDALE, ARIZONA

**PRELIMINARY**  
**NOT FOR CONSTRUCTION**



**Bollinger + Cardenas Architects, Inc.**  
Architecture Planning Interiors Project Management  
3428 E. Indian School Road  
Phoenix, Arizona 85018-5113  
Tel: (602) 957-9205 Fax: (602) 954-9577

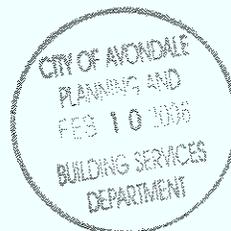
February 9, 2006

Prepared by:  
Felipe A. Zubia, AICP  
Beus Gilbert PLLC  
4800 N. Scottsdale Rd., #6000  
Scottsdale, AZ 85251

Tel: 480-429-3000  
Fax: 480-429-3100

Prepared for:  
Lewis Patrick  
Patrick Properties  
P.O. Box 14136  
Scottsdale, AZ 85267

Tel.: 480-905-9190  
Fax: 480-905-9180



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## Project Team

<p><b><u>Location:</u></b> NWC Avondale Boulevard &amp; McDowell Road</p>	<p><b><u>Acres:</u></b> 54.53 Gross acres; 51.42 net acres</p>
<p><b><u>Submitted to:</u></b> City of Avondale Connie Randall 11465 West Civic Center Drive Avondale, Arizona 85323 623-478-3333 623-478-3824 FAX Email: <a href="mailto:Crandall@avondale.org">Crandall@avondale.org</a></p>	<p><b><u>Prepared for Developer:</u></b> Patrick Properties P.O. Box 14136 Scottsdale, Arizona 85267 480-905-9190 480-905-9180 FAX Contact: Michelle Sivertson Email: <a href="mailto:michelle@patrickproperty.com">michelle@patrickproperty.com</a></p>
<p><b><u>Owner:</u></b> RayRoad, LLC P.O. Box 14136 Scottsdale, Arizona 85267 480-905-9190 480-905-9180 FAX Contact: Lewis E. Patrick <a href="mailto:michelle@patrickproperty.com">michelle@patrickproperty.com</a></p>	<p><b><u>Applicant:</u></b> Beus Gilbert PLLC 4800 North Scottsdale Road Suite 6000 Scottsdale, Arizona 85251 480-429-3002 480-429-3100 FAX Contact: Paul E. Gilbert, Esq. Email: <a href="mailto:fezubia@beusgilbert.com">fezubia@beusgilbert.com</a></p>
<p><b><u>Architect:</u></b> Bollinger &amp; Cardenas Architects, Inc. 3428 E. Indian School Road Phoenix, AZ 85018 (602) 957-9205 (602) 954-9577 FAX Contact: Boris Gaedtke Email: <a href="mailto:bgaedtke@bcaarch.com">bgaedtke@bcaarch.com</a></p>	<p><b><u>Project Engineer:</u></b> DRW Engineering, Inc. 10320 W. McDowell Road, Suite K1136 Avondale, AZ 85323 623-478-8800 623-478-8841 FAX Contact: Debbie Rowe Email: <a href="mailto:drowe@drwengineering.com">drowe@drwengineering.com</a></p>
<p><b><u>Residential Development:</u></b> Developer: Greenlight Realty Contact: Ryan Harris Architect: Sherbondy Art &amp; Architecture 5118 N. 9<sup>th</sup> Avenue Phoenix, AZ 85013 (602) 246-2002 (602) 242-2264 FAX Contact: Don Sherbondy Email: <a href="mailto:designstudio@cox.net">designstudio@cox.net</a></p>	<p><b><u>Traffic Engineer:</u></b> Kirkham - Michael 9201 N. 25<sup>th</sup> Avenue # 150 Phoenix, AZ 85021 602-328-6592 602-944-6592 FAX Contact: Ashish Egrawal Email: <a href="mailto:aagrawal@kirkham.com">aagrawal@kirkham.com</a></p>
<p><b><u>Landscape Architect:</u></b> TBD</p>	<p><b><u>Submitted:</u></b> March 30, 2005 August 8, 2005 December 02, 2005 February 9, 2006</p>

## Property Description

### Location, Boundaries and Size

The proposed development is located at the NWC of Avondale Boulevard and McDowell Road. The property is bounded on the south by McDowell Road, on the east by Avondale Boulevard, on the north by Palm Lane and on the west to northwest by the SRP electrical substation. A Vicinity map is provided as Exhibit A and a Photo Location map is provided as Exhibit B. The project encompasses approximately 54.53 gross acres. A Legal Description is provided as Exhibit C.

The subject site is not annexed. However, A request for annexation of the subject property is pending with the City of Avondale. The request for annexation will be heard by the Council prior to the request for rezoning.

### Existing and Proposed Zoning

The Property is currently vacant and is zoned Rural-43 under Maricopa County jurisdiction. The purpose of this request is to rezone the property from its current designation to allow for a Mixed-Use Planned Area Development District (PADD). This would allow for a mixed development that would accommodate neighborhood retail, residential and office uses.

### Surrounding Land Uses, Zoning and Existing Conditions

To further assist in reviewing this proposal, an Aerial and Surrounding Zoning Map is provided as Exhibit D. This Exhibit illustrates the existing conditions on-site and the surrounding development.

North: The property, Palm Gardens, is developed as single-family residential homes with a PADD zoning designation. The typical lot size in this development is 6,000 square feet (55' x 110').

South: The property to the south is zoned PADD. Although most of the property south of the subject site is currently vacant, a portion of this property has been developed as multi-family residential.

East: To the east is zoned C-1 and R1-6, known as Donatela. The C-1 is currently vacant and the R1-6 is under construction with a typical lot size of 7,300 square feet (63' x 116'). At the northeast corner of the subject property, there are 3 parcels zoned Rural-43. These parcels will remain under County jurisdiction.

West: The property to the west is zoned Rural-43. This property is developed as an SRP electrical substation. Approximately 580' east of the west property, a 30' SRP electrical easement traverses Parcels 3 and 4. No structures are proposed or allowed by SRP within this easement.

## Conformance with Plans

### Consistency with the City Initiated General Plan Amendment

Mayor and City Council recently approved the City initiated General Plan amendment for the property from Commercial to Mixed-Use. Referring to the General Plan, the following definition of the Mixed Use Land Use designation is provided:

***Mixed Use:** This use provides for a mix of high intensity uses with a retail commercial emphasis. This designation may include a maximum of 45% residential use. Mixed uses may include neighborhood and community retail, residential, hotel/motel, and employment.*

Specifically, the General Plan sets forth the objective to “encourage mixed-use development that provides nearby “captive” markets for retail uses.” In order to continue to participate in these economic development efforts, the General Plan further states, that new retail developments should be strategically located near potential markets within the City. This proposed development meets this objective and satisfies these policies.

As indicated above, this development will increase the City's sales tax revenues by providing employment and retail services to both residents and visitors. This development will also provide a residential element, which will allow for a truly mixed-use development where individuals can live, work and shop.

The proposed development further meets the City's policy to encourage mixed-use development that provides nearby “captive” markets for retail uses. The proposed development will accommodate neighborhood retail, office, residential, and business park uses. Therefore, it is indeed classified as a mixed development. Furthermore, the proposed development is strategically located at the corner of two arterial streets.

### Consistency with the Freeway Corridor Specific Plan (the “Plan”)

The subject property is also located within the boundaries of the City's Freeway Corridor Specific Plan. The General Plan indicates that the goal for this area is to provide employment opportunities for the City's residents as well as to contribute to the City's economy and to provide services to the residents and businesses. The proposed development accomplishes these goals.

The Corridor is viewed both as a place for employment and for residence. Because of its accessibility to other metropolitan area activity centers via Interstate 10 (“I-10”), this vicinity is being planned for maximum orderly capacities in terms of the jobs it may accommodate and the people it may house.

The proposed development meets the Plan's goal and objective to encourage the full spectrum of regional and community services, employment opportunities, and residential uses to establish a "destination" location where people can live in close proximity to their work. Urban design standards and concepts established by the Plan will serve to make the Corridor a distinctive experience and setting.

The Avondale Freeway Corridor, throughout this Specific Plan, has been referred to as an area that is appropriate for mixed land use development and the proposed development will serve to accomplish this objective.

Over time, the Freeway Corridor area is expected to function as the economic heart of the City of Avondale. The proposed development helps to achieve this goal by providing office uses, residential uses, retail shopping uses and entertainment as set forth in the Plan.

#### Boulevard Streetscape

One of the objectives of the Freeway Corridor Plan is, in part, "to establish a distinctive image to the Corridor and the City of Avondale". To carry out this objective, the proposed development will provide increased right-of-way landscaping improvements as required by the City. The Southern Live Oak shall anchor the Boulevard theme.

The "Boulevard" streetscape concept will be comprised of consistent and repetitive use of the Southern Live Oak and complementary landscape materials. Pedestrian circulation will also be upgraded by providing wide, shaded sidewalks separated from the street by landscaping and by specially paved pedestrian street crossing. The Boulevard elements will be designed to enhance pedestrian circulation as well as comfort to promote a "pedestrian-friendly" environment. Increase right-of-way landscaping to accomplish the boulevard theme will be provided as required by the City.

## **Project Description**

### **Overall Description**

The purpose of this request is to rezone the property from its current designation to allow for a mixed-use Commercial Planned Area Development District (PADD). This would allow for a mixed development that would accommodate neighborhood retail, residential and office. This proposal is in conformance with the City's proposed General Plan amendment. Avondale Marketplace is located within the boundaries of the City's Freeway Corridor Specific Plan and it is compatible and in conformance with it as well.

### **Data Table**

	<b>Gross Acres</b>	<b>Right-of-Way</b>	<b>Net Acres</b>
<b>Acres</b>	54.53	2.11	51.42

### **Master Site Plan and Site Plan Review**

A Master Site Plan for the Commercial/Office development shall be processed and approved by Council following zoning approval. Master Site Plans shall encompass a minimum of 10 acres. Thereafter, each individual Commercial/Office site may process an individual site plan for administrative review and approval.

### **Flood Zone Determination**

The subject property is located within flood zone "X", based on FIRM maps numbers 04013C2085F and 04013C2080H.

## Proposed Land Use Development Map

### Proposed Land Use Development Map

The developer plans to incorporate major retail anchors, ranging from 30,000 to 100,000 square feet, with several additional retail shops and pads. Major retail anchors in excess of 100,000 square feet are permitted with a Conditional Use Permit. As a mixed-use development, Avondale Marketplace also includes a high-end attached single-family residential component. A copy of the Proposed Land Use Development Map is provided as Exhibit E.

### Traffic Analysis

A Traffic Analysis for Avondale Marketplace has been provided with this submittal. As requested by staff, the Traffic Analysis utilizes the City of Avondale traffic counts.

### Project Phasing

The project-phasing schedule is not definite however, immediately following Council approval it is our intent to proceed with one or two master site plan approvals for all the Commercial/Office parcels. Master site plans for the Commercial/Office Parcels shall be a minimum of 10 acres. The preliminary plat for the single-family residential will follow the first Commercial/Office site plan.

<b>PHASING SCHEDULE</b>				
Phase	Parcel #	Use	Master Site Plan	Building Plans
I	3 and 4	Commercial/Office	Spring 2006	Spring 2006
I	2, 3 and 4	Perimeter Streets	Spring 2006	Spring 2006
II	1	Residential	Summer 2006	Summer 2006
III	2	Commercial/Office	Spring 2006	Fall 2006

The associated off-site infrastructure in McDowell and Avondale Boulevard adjacent to the PAD will be installed as part of Phase I.

## Commercial and Office Sub-Area Criteria

### Allowed Uses

Referring to Exhibit E, Parcels 2, 3 and 4 constitute the Commercial Office sub-area. This area will allow various commercial and office land uses listed below provided all uses are indoor and within enclosed buildings and no single-user shall be in excess of 100,000 square feet of gross floor area.

Principally Permitted Uses – The following uses are authorized:

1. Retail sales of new merchandise within enclosed buildings;
2. Personal services:
  - a. Barber shops, nail salons, beauty salons, tanning salons;
  - b. Day Spa (which provides a variety of personal services such as hair styling, manicures and pedicures, makeup, facials, tanning, massage, and other related services) excluding Sexually Oriented Businesses and tattoo parlors;
3. Medical, dental, or health offices;
4. Child care center;
5. Music or dance schools;
6. Banks and financial institutions;
7. Full service restaurants, delis, coffee shops, and similar eating establishments;
8. Alterations, Tailoring;
9. Professional and administrative offices;
10. Employment agencies excluding day labor centers;
11. Veterinary hospital, office, and clinic, excluding animal boarding;
12. Schools and educational institutions;
13. Video and or music CD/DVD rental or sale.

Permitted Uses subject to Conditions – The following uses are allowed subject to the listed conditions:

1. Auto leasing:
  - a. Not more than 10 vehicles stored on site;
  - b. Lease vehicles shall be stored to the rear of the main anchor buildings;
2. Mini-Storage:
  - a. Only located on parcel 3;
  - b. No outdoor or vehicle storage;
3. Health and exercise centers:
  - a. Maximum usable square footage of 3,000 square feet.
4. Laundry, cleaning, and dry cleaning establishments, limited as follows:

- a. Maximum of one thousand (1,000) square feet of floor area to be occupied by or devoted to machinery to be used for laundry, cleaning, dyeing, and finishing work;
  - b. Retail service to individual customers only and no wholesaling of any commodity or service shall be permitted.
5. Drive-Thru facilities:
- a. Pick-up window shall be incorporated into the primary building through the use of a canopy;
  - b. Pick-up window shall not face Avondale Blvd. or McDowell Rd.;
  - c. All drive-thru facilities shall be reviewed and approved concurrent with the master site plan;
  - d. A minimum of 75 feet of vehicle stacking measured from the menu board shall be provided;

Permitted Uses, subject to a Conditional Use Permit – The following uses may be allowed subject to Section 108, Conditional Use Permits, of the Avondale Zoning Ordinance:

- 1. Health and exercise centers greater than 3,000 square feet of usable floor area;
- 2. Any single retail use that is greater than one-hundred thousand (100,000) square feet of gross floor area;
- 3. Indoor Commercial/Entertainment such as Ice Skating, Roller Skating, Batting Cage, Bowling Alley, and Driving Range;
- 4. Automotive Supply Store, indoor.
- 5. Churches or similar places of worship;
- 6. Technical School or business school.

Accessory Uses – The following uses are allowed as accessory uses directly related to an approved use:

- 1. Outdoor Dining
- 2. ATM (Automated Teller Machine)
- 3. Accessory buildings, structures and uses customarily incidental to an approved use

Prohibited Uses – The following uses are prohibited:

- 1. Auto diagnostic, lube and tune, auto service, auto repair, auto body, or any other similar automotive use;
- 2. Sexually Oriented Businesses;
- 3. Bar, tavern, cocktail lounge, excluding restaurants, delis, or cafés;
- 4. Automatic, full service, or self service carwashes;
- 5. Car sales, new or used;
- 6. Day labor hiring center;
- 7. Gas service station;

8. Hotel or motel;
9. Self service Laundromat;
10. Liquor stores;
11. Office warehouse;
12. Outdoor display, except through a Temporary Use Permit and outdoor uses, excluding outdoor dining;
13. Shooting ranges;
14. Any use not expressly permitted herein.

**Development Standards**

Development standards for the Commercial/Office development are provided below.

<b>Standard</b>	<b>Commercial/Office Parcels</b>
Minimum Lot Width	None
Minimum Lot Depth	None
Maximum Lot Coverage	None
*Maximum Height	30'
McDowell Road Setback to Building/Parking	30'/40'
Avondale Boulevard Setback to Building/Parking	25'/25'
Interior Setback	None
Building Setback from a Residential Use	25'
Minimum Side Yard Setback – Building	0'
Minimum Rear Yard Setback	0'

**Lighting**

Exterior lighting shall be consistent throughout the project area and shall comply with the City of Avondale Outdoor Lighting Ordinance. All lighting shall be fully shielded, directed down, and have a maximum 1-foot candle at the property line. A photometric plan shall be provided with the Master Site Plan application. Additionally, the following standards shall apply:

\* Maximum height may be exceeded by not more than 5' for parapet. Additionally, architectural embellishments may project up to 40' not used for human occupancy.

- Accent lighting of selected architectural, landscape and/or hardscape features will be allowed and is encouraged. Said lights shall be fully shielded.
- Exterior site lighting fixtures will be located and oriented to focus light inward from the residential parcel, Avondale Boulevard and McDowell Road.
- All primary light fixtures shall be metal halide
- The design of lighting fixtures and their structural support shall be of a scale and architectural design compatible with on-site buildings.
- Fixtures that illuminate large areas from a single source are prohibited.
- Pedestrian scale lighting features shall be provided in areas designed for pedestrian activities such as plazas, courtyards, pathways and seating areas, but excluding parking only areas. Such pedestrian lighting fixtures will complement the general architectural style of the development.
- The use of decorative wall-mounted sconces or light fixtures is encouraged.
- Exterior building lighting for egress and/or security will be located and oriented to focus light downward over egress and delivery doors.
- Bases for pole-mounted lighting shall be concrete and shall be integrally colored to match the shopping center.

### Screening

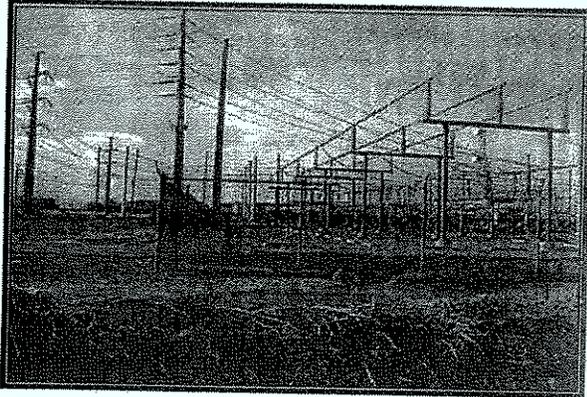
Where screening is required by this document, a combination of elements shall be used including solid walls, berms, and landscaping. All screening, including parking lot, trash enclosure, loading and utility screening shall be architecturally compatible with the adjacent building in terms of materials and colors. Trash enclosures shall be sited away from project entrances and major circulation routes. In conformance with the Freeway Corridor Specific Plan, screen walls shall not be used for more than 25 percent of the screening along McDowell Road or Avondale Boulevard.

### Parking

All development shall comply with the parking requirements, identified in Section 804 of the Zoning Ordinance. Appropriate street dedications will be provided as required by the City. A minimum of 15% of any parking area adjacent to McDowell Road shall be landscaped. Shopping cart corrals in parking lot areas shall be designed in a complementary fashion to the building they serve.

### Buffers and Landscaping

The Commercial and Office parcels of Avondale Marketplace shall provide a 25' landscape buffer directly adjacent to Parcel 1, the residential parcel. No Parking shall be allowed in this buffer.



The development has been thoughtfully designed so that the commercial and office uses are easily noticeable and accessible from the two arterial streets. Further the commercial development on Parcel 3 has been designed to screen the existing SRP Substation from Avondale Boulevard, McDowell Road and the future office development on Parcel 4.

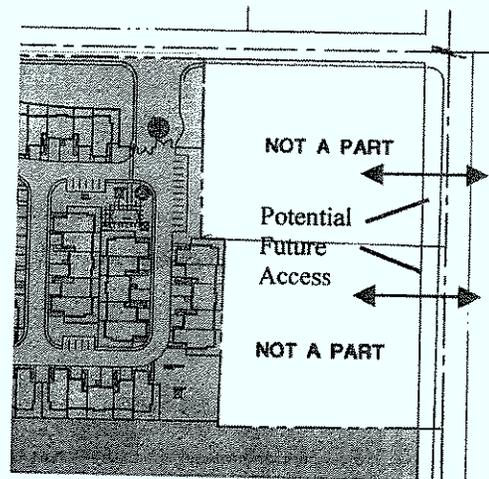
### Exception Parcel Access

Future access to property outside Avondale Marketplace at the northeast portion of the site will be provided via Avondale Boulevard.

### Architectural Design

The architectural design, including color and material palettes, for the Commercial and Office sub-area shall be reviewed and approved with a Master Site Plan. Architectural design shall be consistent with the following architectural elements:

- No service door, bay or loading area shall front onto Avondale Boulevard or McDowell Road.
- For all buildings at least two of these elements shall repeat horizontally. Buildings with facades greater than 100 feet in length shall include several of the elements listed below, repeated at appropriate intervals, either horizontally or vertically:
  - Color change. Recognizable, but not strongly contrasting.
  - Texture change.
  - Material change.
  - Architectural variety and interest through a change in plane such as offsets, reveals, archways or projecting ribs.



- Wall plane projections or recesses.
- Variations in rooflines or parapets shall be used to reduce the scale of the buildings. Roof size, shape, material, color and slope shall be coordinated with the scale and theme of the building.
- Service and exit doors shall be recessed and integrated into the architecture of the elevations.
- Reduction of building mass shall be achieved by using a combination of the following techniques:
  - Variation in the rooflines and form.
  - Use of ground level arcades and covered areas.
  - Use of protected and recessed entries.
  - Use of vertical elements on or in front of expansive blank walls.
  - Use of pronounced wall plane offsets and projections.
  - Use of focal points and vertical accents.
  - Inclusion of windows on elevations facing streets and pedestrian areas. Retaining a clear distinction between roof, body and base of a building.
- Roof lines, relative building heights, orientation of entrances and other major architectural elements of the buildings shall be designed within the context of the overall PADD. Building design shall complement the surrounding area, with contrast encouraged where appropriate or beneficial to the overall development.
- Service entries, site-mounted equipment, trash containers and other ancillary structures shall be screened from view, both from adjacent properties and surrounding streets.
- All buildings shall be designed and constructed so that all four sides of a building shall receive consistent architectural treatment.
- Expansive vertical surfaces shall be modulated or designed with offsets to reduce the appearance of scale.
- Any accessory buildings, enclosures, carports, and equipment, whether attached or detached from the principal building shall be of similar compatible design and materials as the principal building.
- The design of service and loading areas shall be designed as an integral part of the building architecture.
- Any roof access ladders shall be located inside the building.
- All roof drainage shall be interior roof drains.

#### Building Materials

The architectural design, including color and material palettes, for the Commercial and Office sub-area shall be reviewed and approved with a Master Site Plan. Building within the PADD shall be consistent with the following building materials:

- Primary buildings materials shall include: common clay brick; poured in place, tilt-up or pre-cast concrete provided that surfaces include scoring, texture or have a painted finish textured concrete or panels; stucco or EIFS (exterior insulated finish systems) type systems provided that finishes must be smooth or sand finish; integrally colored concrete block, smooth face and/or split-face block units; or other similar materials.
- All tilt or pre-cast concrete panels or smooth face block shall include methods for improving the design such as: additional color and texture, bays, windows, notched parapets, canopies, reveals, building wall undulation, corner windows, additional materials etc.
- Accent materials shall include: granite, marble, natural stone, block, brick, ceramic tile, treated wood, metal, or other similar materials.
- Roofs may be flat with parapet walls, or sloped with concrete tile, standing metal seam, or equivalent architectural materials.

The following building materials shall be prohibited:

- Exposed plain concrete block
- Exposed untreated plain concrete tilt
- Wood as a primary building material
- Corrugated metal
- Standing seam metal roofs
- Pre-engineered metal siding

#### Color Palette

The architectural design, including color and material palettes, for the Commercial and Office sub-area shall be reviewed and approved with a Master Site Plan. Buildings within the PADD shall be consistent with the following:

- Colors and materials should be used to create visual harmony within the PADD. The approved colors are as follows:
  - Primary building colors shall be desert hues and other "earth tones" muted shades of blues, greens, yellows, and reds found in the natural desert, and colors appearing in natural stone.
  - Accent colors on buildings shall complement the primary building colors and include combinations of desert hues, earth tones, muted shades of blues, yellows, greens, reds and colors found in natural stone. Brighter colors such as orange, red, blue, green, yellow, purple and similar colors may be used as accents on retail buildings as approved in the Site Plan review process.

### Site Design

The site design for the Commercial and Office sub-area shall be reviewed and approved with a Master Site Plan. The Master Site Plan shall include a list of proposed uses. Any proposed uses requiring a Conditional Use Permit shall be reviewed and approved as part of the Master Site Plan. Unless otherwise modified by this document, the site design shall conform with the applicable City of Avondale Zoning Ordinance requirements, as amended from time to time. Parking canopies, if provided, shall be painted with complementary colors to the building it serves. Additionally, parking canopies shall not front onto McDowell Road or Avondale Boulevard.

### Landscape Design

Landscaping shall meet or exceed the landscaping requirements set forth in Sections 2 and 6 of the Zoning Ordinance and the Freeway Corridor Specific Plan. All development in the commercial/office master plan shall comply with screening standards identified in Sections 2, 5 and 6 of the Zoning Ordinance as well as those identified in the Freeway Corridor Specific Plan.

The landscaping will provide for the "boulevard" streetscape for McDowell Road as required by the Freeway Corridor Specific Plan.

### Infrastructure

Conceptual grading/drainage, water and sewer design shall be reviewed and approved as part of the Master Site Plan review and approval process. Water and Sewer for the Commercial Office sub-area shall be public. All infrastructure shall meet the City's requirements.

- **Grading and Drainage**

The PADD site slopes from the northeast to the southwest. Preliminary grading and drainage plans will be submitted with the Master Site Plan. On-site retention basins will be designed and constructed as part of the development of each parcel or combination of parcels as approved in the Construction Plans.

- **Water**

The site is served water with an 8-inch line in Palm Lane, a 16-inch line in Avondale Blvd., and a 16-inch line in McDowell Road, which extends across approximately 40% of the McDowell Rd. frontage. Additional water lines will be designed and constructed to serve individual parcels or combination of parcels as approved in the Construction Plans.

- Sewer

The site is served sewer with 10-inch and 12-inch lines in Palm Lane and a 21-inch line in McDowell Rd. The average daily sewer flows can be estimated based on the City of Avondale Engineering Design Standards Book. The exact sewer flows will not be known until Master Site Plan approval. Sewer lines will be designed and constructed as part of the development of each parcel or combination of parcels as approved in the Construction Plans.

- Fire Hydrants

Fire hydrants will be installed at spacing consistent with use and structures as required by building and fire codes. Additional fire hydrants and water lines may be required for individual parcels depending on the Master Site Plan approval. Domestic and fire flow requirements can not be calculated until Master Site Plan approval and specific users and square footages are known, however, the development of the site will meet the City of Avondale fire flow and supply requirements.

### Miscellaneous

- Ownership and Maintenance

Parcel 2 will be governed by a set of Covenants, Conditions and Restrictions that will be utilized to facilitate cross-access, joint parking and drainage. The CC&R's will govern the maintenance responsibility and enforcement for all common and private areas.

Parcel 3, will be self-contained and will be responsible for retaining its own stormwater and providing for its own parking. The CC&R's will govern the maintenance responsibility and enforcement for all common and private areas.

Parcel 4, will be responsible for retaining its own stormwater and providing for its own parking however, a cross-access easement with Parcel 2 will be provided to facilitate internal circulation and reduce traffic on McDowell Road. The CC&R's will govern the maintenance responsibility and enforcement for all common and private areas.

### Sign Criteria

These sign standards are proposed for the Commercial/Office development, Parcels 2, 3 and 4. A Comprehensive Sign Plan shall be reviewed and approved as part of the Master Site Plan prior to the issuance any sign permits for the Commercial/Office Development. The Comprehensive Sign Plan shall address the architectural design, letter style and color for all signs, which shall be uniform throughout the center and complementary to the approved building architecture.

- **Justification**

This project is located at a major intersection and approximately ¼-mile north of Interstate 10. This property is strategically located to not only serve local residents but also to provide complementary retail support services to the regionally situated properties adjacent to I-10. These standards are less than what is anticipated on the Regional Commercial parcels on the south side of McDowell Road. These standards are intended to be complementary to the anticipated Regional Commercial signage anticipated south of McDowell Road.

The landlord shall approve all signs, in writing, prior to installation. Sign permits for design and location must be obtained from the City of Avondale prior to the installation of any sign.

- **PARCEL 2**

- Free-Standing Signs

The following ground signs are the only ground signs permitted on Parcel 2. All monument signage shall provide illumination of copy and logos only, with routed out metal backgrounds.

1. Free-Standing Multi-Tenant signs. Three monument identification signs, with a minimum spacing between signs of 100', shall be allowed on Parcel 2 as follows: (An additional 2' in height may be allowed for architectural embellishments)
  - a. Major Entry – Two 12' – 6" tall 75 square foot signs,
    - i. one (1) on Avondale Boulevard and
    - ii. one (1) on McDowell Rd.
  - b. Minor Entry – One 10' – 6" tall 66 square foot sign,
    - i. one (1) on McDowell Rd.
1. All signs to be located 1' behind property line out of traffic visibility perimeters.
2. All metal surfaces shall be painted to match the center colors.
3. All freestanding signs will incorporate the required base landscaping per City of Avondale Zoning Ordinance Requirements.

- Parcel 2 Directional Signs

When required to assist the flow of traffic, (i.e. drive thru, exit, enter, etc.).



Comprehensive sign plan.

6. Each sign package shall be subject to review and approval by the Developer/Landlord and the City of Avondale.
7. The overall length of any sign shall not exceed 80% of the leased frontage on which it is placed. The overall height not to exceed 70% of the narrowest portion of the vertical fascia height on which it is placed.

- **PARCEL 3 and 4**

Free-Standing Signs

- a. Parcel 3 – One 6' tall 28 square feet monument sign.
  - i. One (1)
- b. Parcel 4 – One 6' tall 28 square feet monument sign.
  - i. One (1)

Parcel 4 Office Tenants

Permanent Sign Area

Wall signs: 1 square feet of sign area for each foot of building frontage on the longest front. For all other building elevations, 1/2 square feet of sign area per building front.

i.e.: A building that has a 30' x 100' front will be allowed to use their 100 square feet of sign area on the length of the building that holds the 100 feet in length. The remaining other elevations will be allowed to utilize only ½ of their approximate building length for sign square footage. For example a 30' side elevation can have 15 square feet of signage. The main longest front of 100' can have 100' of square footage for signage.

Each sign shall be subject to review and approval by the Developer/Landlord and the City of Avondale.

## **Residential Sub-Area Criteria**

### **Allowed Use**

Referring to Exhibit E, Parcel 1 is proposed as a single-family attached residential project.

Principally Permitted Use – The following use is authorized:

1. Attached or detached Single-Family Residential
2. Multi-Family Residential for fee simple ownership

Permitted Uses subject to Conditions – The following uses are allowed subject to the listed conditions:

1. None

Permitted Uses, subject to a Conditional Use Permit – The following uses may be allowed subject to Section 108, Conditional Use Permits, of the Avondale Zoning Ordinance:

1. None

Accessory Uses – The following uses are allowed as accessory uses directly related to an approved use:

1. Accessory buildings, structures and uses customarily incidental to an approved use

Prohibited Uses – The following uses are prohibited:

1. All uses not specifically listed herein

### **Development Standards**

A full discussion of the proposed residential development, along with identifying exhibits is provided as Exhibit F of this document.

Standard	Parcel 1 (Residential Parcel)
Acres	15.92
Maximum Density	8.5
Maximum Units	135
Housing Type	Rear Loaded Single Family (attached or detached)  Multi-Family (condominium or attached town houses)
Parking	2 Car Garage/Unit 1 visitor parking space for every two units.
Minimum Lot Width	27 feet
Minimum Lot Depth	70 feet
Maximum Lot Coverage	60%
Minimum Lot Area	1,900 Sq. Ft.
<sup>1</sup> Maximum height	30 feet
Setbacks	
Rear	7 feet
Front	3 feet
Side	0 feet for attached units  7 feet from any adjacent building
From single family use or district	15 feet for single-family (attached or detached) measured from property line.  50 feet for multi-family measured from property line
From Substation	100 feet, measured from substation property line

#### Architectural, Site and Development Criteria

A full discussion of the proposed residential development, along with identifying exhibits is provided as Exhibit F of this document. The residential project design shall comply with the provisions of Exhibit F.

<sup>1</sup> Maximum Height may be exceeded by not more than 5' for parapet or architectural embellishments.

**APPENDIX**  
**Exhibit "A"**

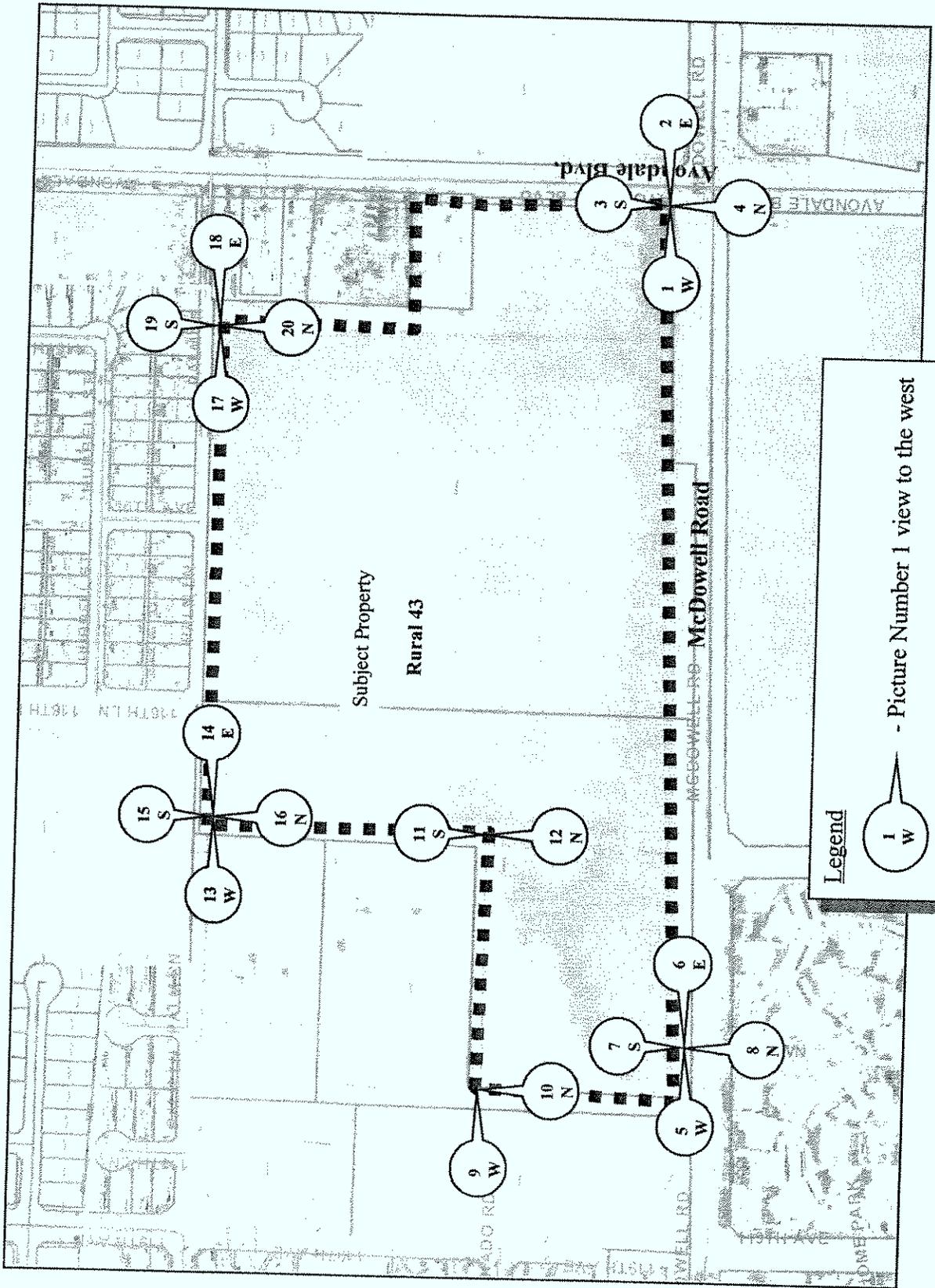
**Vicinity Map**



Exhibit "B"

Photo Location Map

# PHOTO LOCATION MAP



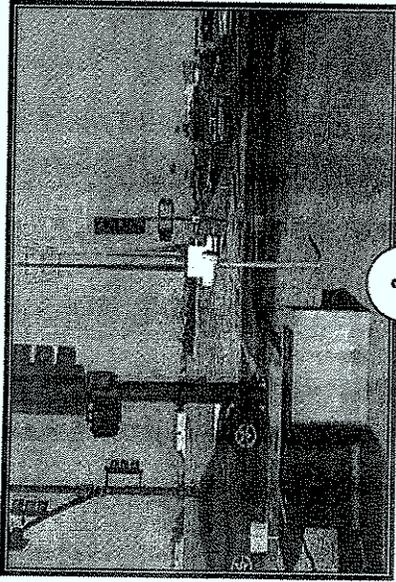
**Legend**

1 W - Picture Number 1 view to the west

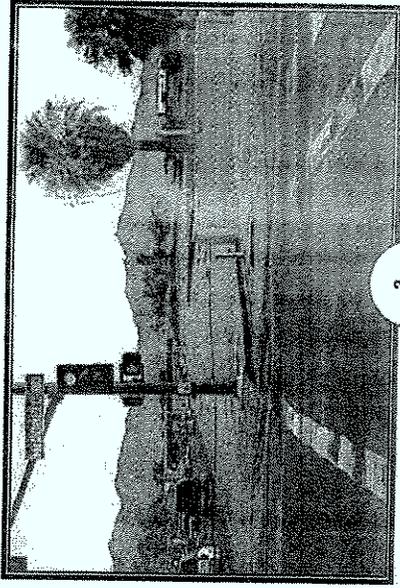
PHOTOS 1 -- 6



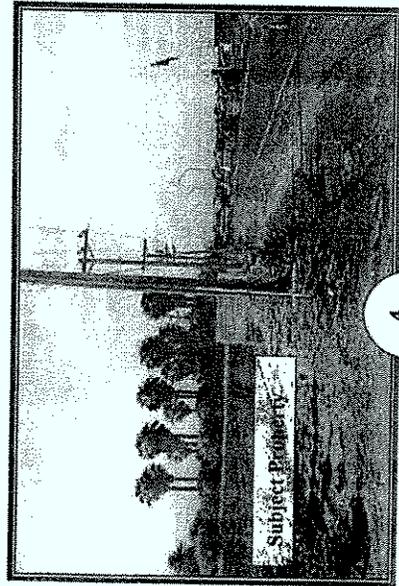
1 W



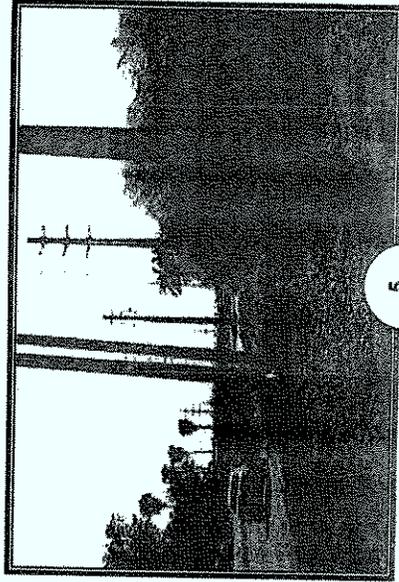
2 E



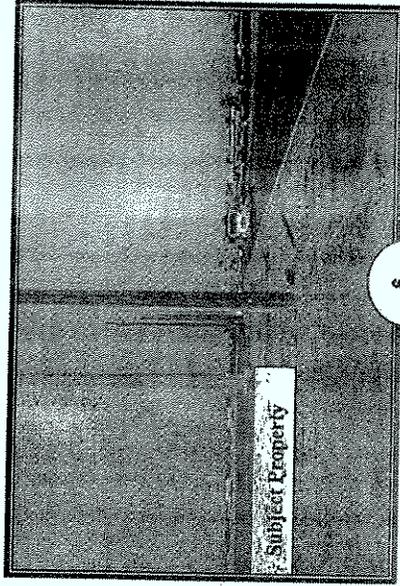
3 S



4 N

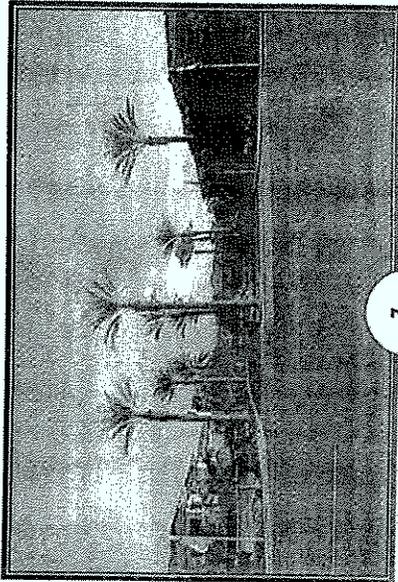


5 W

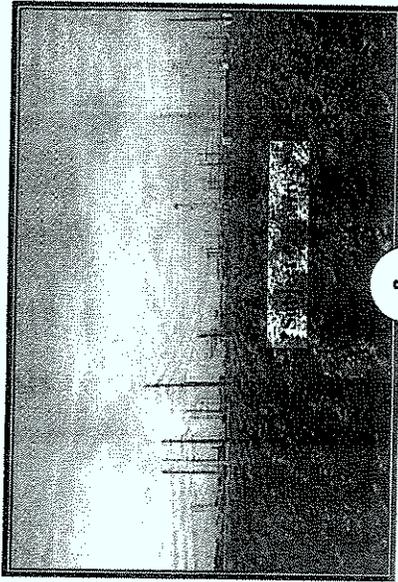


6 E

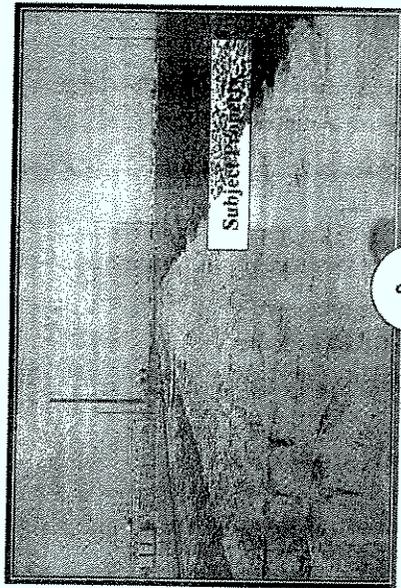
PHOTOS 7 - 12



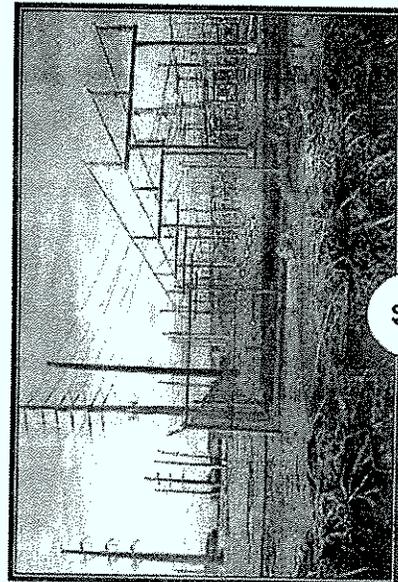
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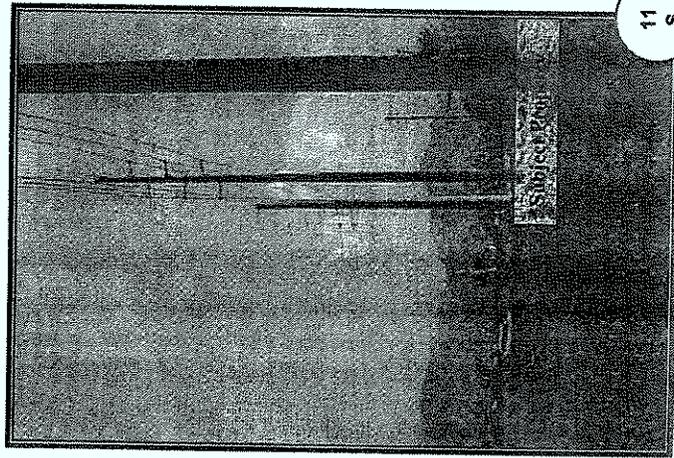
8 N



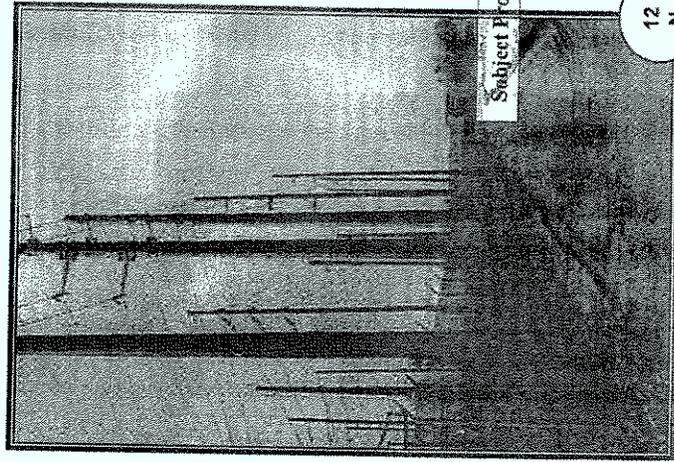
9 W



10 N



11 S



12 N

Subject Property

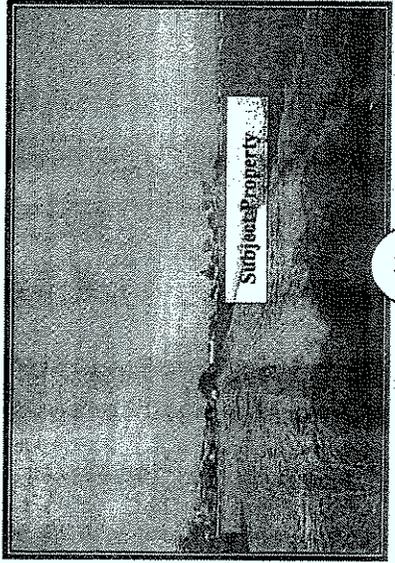
Subject Property

Subject Property

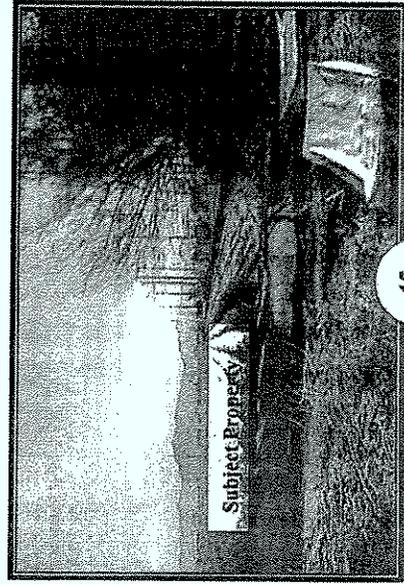
PHOTOS 13 - 18



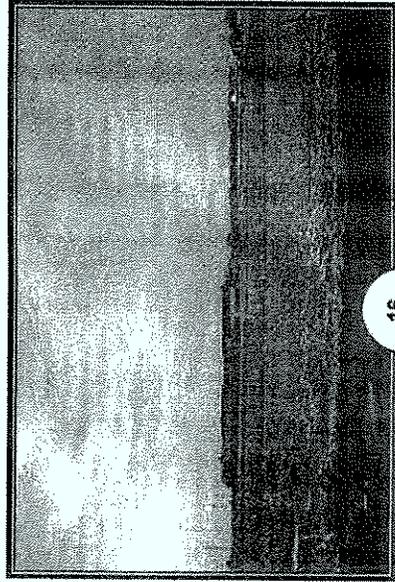
13  
W



14  
E



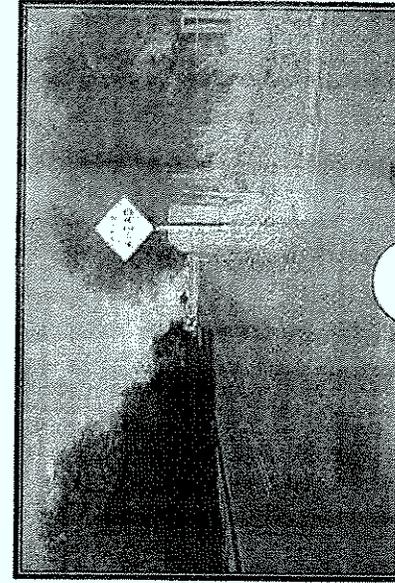
15  
S



16  
N

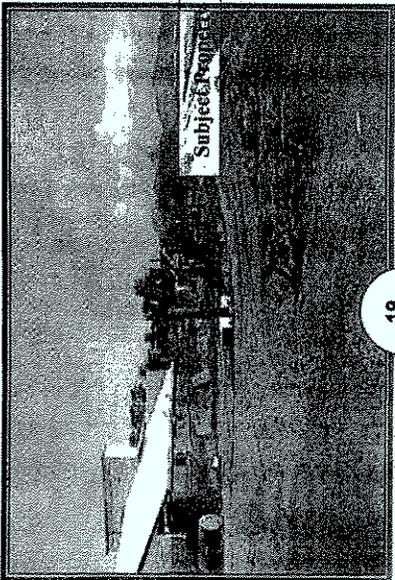


17  
W

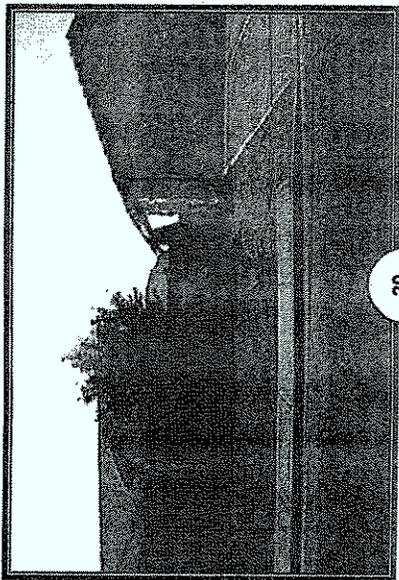


18  
E

**PHOTOS 19 & 20**



19  
S



20  
N

Exhibit "C"

Legal Description

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 36;  
 THENCE SOUTH  $89^{\circ}15'46''$  WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2274.13 FEET;  
 THENCE NORTH  $00^{\circ}53'09''$  EAST A DISTANCE OF 589.26 FEET;  
 THENCE NORTH  $89^{\circ}50'14''$  EAST A DISTANCE OF 610.00 FEET;  
 THENCE NORTH  $00^{\circ}53'09''$  EAST A DISTANCE OF 750.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 36;  
 THENCE NORTH  $89^{\circ}50'14''$  EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1302.54 FEET TO A POINT FROM WHICH THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 36 BEARS NORTH  $89^{\circ}50'14''$  EAST A DISTANCE OF 340.71 FEET;  
 THENCE SOUTH  $00^{\circ}00'00''$  WEST A DISTANCE OF 267.63 FEET;  
 THENCE SOUTH  $89^{\circ}08'00''$  EAST A DISTANCE OF 33.50 FEET;  
 THENCE SOUTH  $00^{\circ}46'00''$  WEST A DISTANCE OF 263.61 FEET;  
 THENCE NORTH  $89^{\circ}25'00''$  EAST A DISTANCE OF 310.76 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 FROM WHICH THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 36 BEARS NORTH  $00^{\circ}00'00''$  EAST A DISTANCE OF 529.53 FEET;  
 THENCE SOUTH  $00^{\circ}00'00''$  WEST, ALONG SAID EAST LINE, A DISTANCE OF 786.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,375,280 SQUARE FEET OR 54.53 ACRES OF LAND, GROSS AREA TO CENTERLINE OF STREET, MORE OR LESS.

PREPARED BY:

DRW ENGINEERING  
 10320 W. McDOWELL RD., STE. K-1136  
 AVONDALE, AZ 85323

JOB NO. 04013  
 DECEMBER 15, 2004





N.T.S.

FD. B.C.F.L.  
N.E.C. SE $\frac{1}{4}$ , SE $\frac{1}{4}$ , SEC. 36,  
T. 2 N., R. 1 W.

**PALM LANE**  
N 89°50'14" E 1302.54'

S 00°00'00" W 267.63'

S 89°08'00" E 33.50'

N 00°53'09" E 750.00'  
S 00°46'00" W 283.61'

N 89°25'00" E 310.76'

N 89°50'14" E 610.00'

S 00°00'00" W 786.74'

N 00°53'09" E 589.26'

340.71'

589.35'

115TH AVENUE

P.O.B.

S 89°15'46" W 2274.13  
**McDOWELL ROAD**

FD. B.C.H.H.  
S.E.C. SE $\frac{1}{4}$ , SEC. 36,  
T. 2 N., R. 1 W.



File Name: C:\DRW-JOBS\04013\04013EXH

Date: 12/15/04

Job #: 04013

**DRW ENGINEERING, INC.**

10320 West McDowell Road, Suite K-1136  
Avondale, Arizona 85323  
(623)478-8800 FAX(623)478-8841  
Email: drw@drwengineering.com

Exhibit "D"

Aerial Photo/Surrounding Zoning Map

# AERIAL and SURROUNDING ZONING MAP

## NWC Avondale Boulevard and McDowell Road

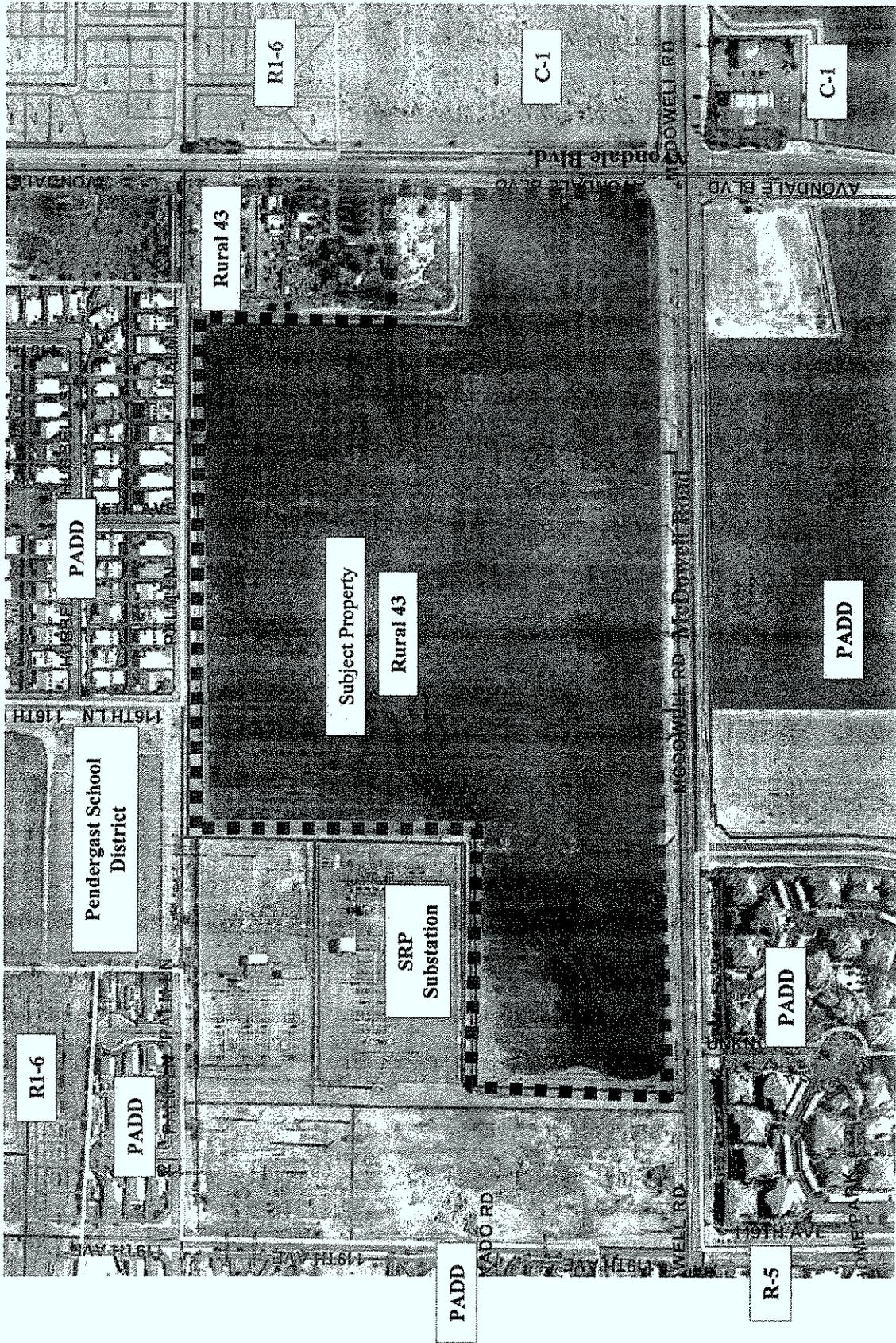
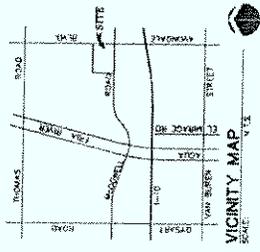


Exhibit "E"

Proposed Land Use Development Map



**VICINITY MAP**  
SCALE: 1" = 100'

**OVERALL SITE DATA:**  
 TOTAL AREA: 1,174,208 G.S.F. (54.53 AC)  
 PHASE I: 238,000 G.S.F. (10.91 AC)  
 PHASE II: 683,475 G.S.F. (31.22 AC)  
 PHASE III: 252,733 G.S.F. (11.47 AC)

PRELIMINARY - Not for Construction or Recording

**AVONDALE MARKETPLACE**  
 RETAIL CENTER  
 N.W.G. of MCDOWELL ROAD & AVONDALE BOULEVARD  
 AVONDALE, ARIZONA

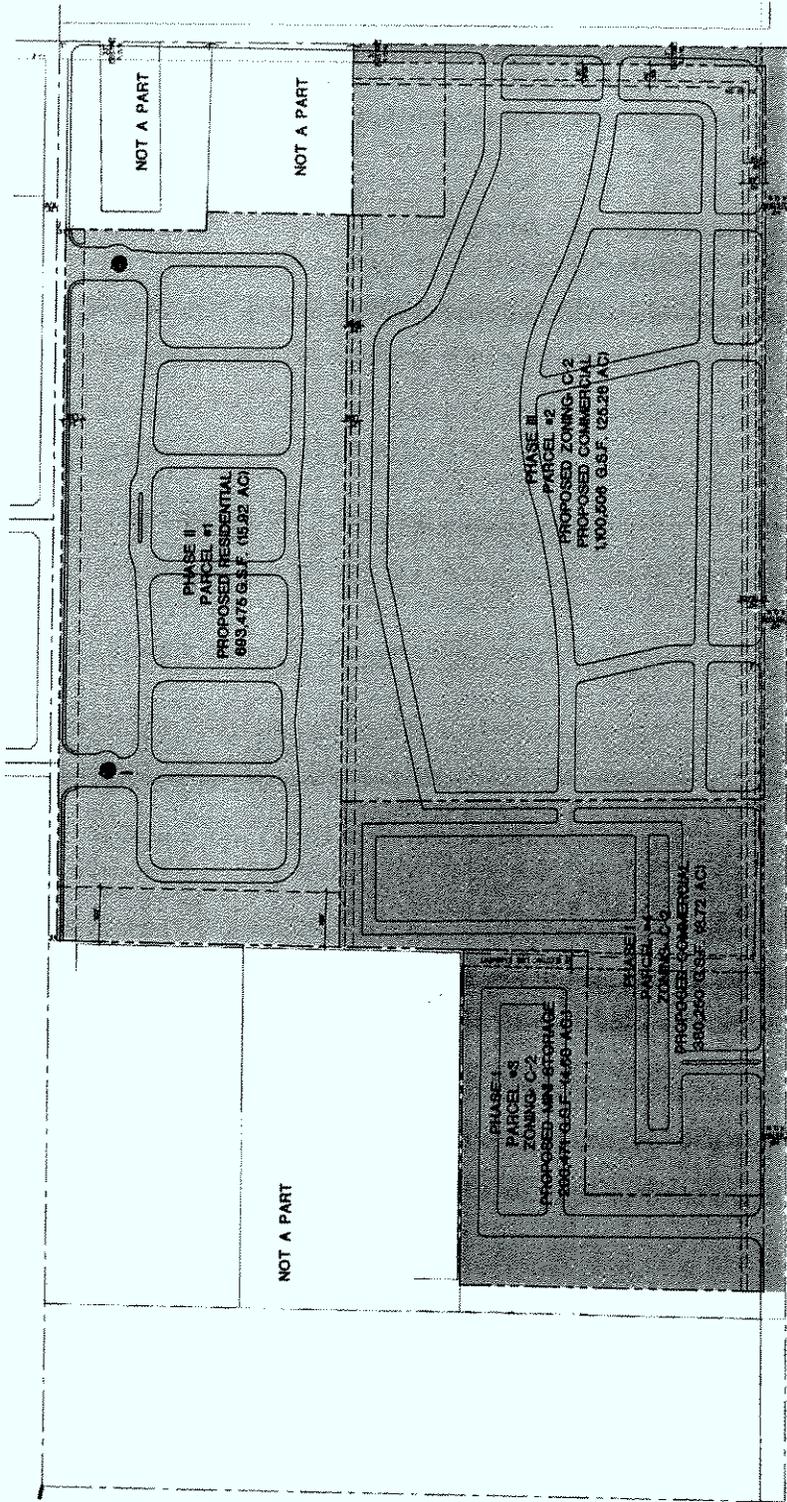


Boelinger + Cordatos Architects, Inc.  
 Architecture Planning Interiors  
 3425 E. Indian School Street  
 Phoenix, Arizona 85018-4113  
 Tel: (602) 951-9225 Fax: (602) 954-9377

**PHASING PLAN**  
 SCALE: 1" = 100'-0"  
 DATE: 11/16/05  
 JOB #: 104305

SHEET **A10** OF 1 SHEETS

- SCHEMATIC DESIGN
- DESIGN DEVELOPMENT
- CONSTRUCTION DOCUMENTS
- CONSTRUCTION PERMITS
- CONSTRUCTION ISSUES

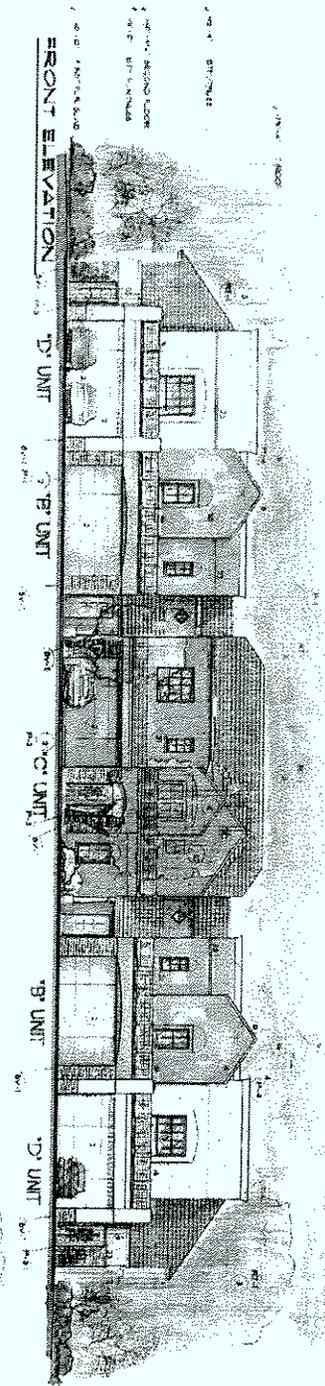


**PHASING PLAN**  
 SCALE: 1" = 100'



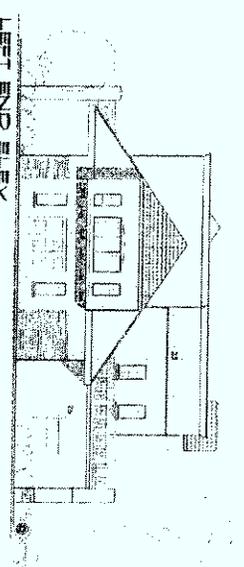
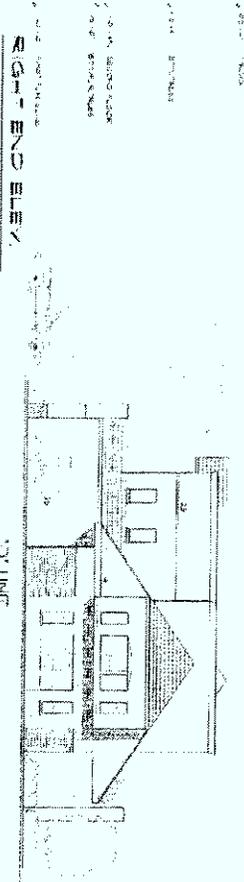
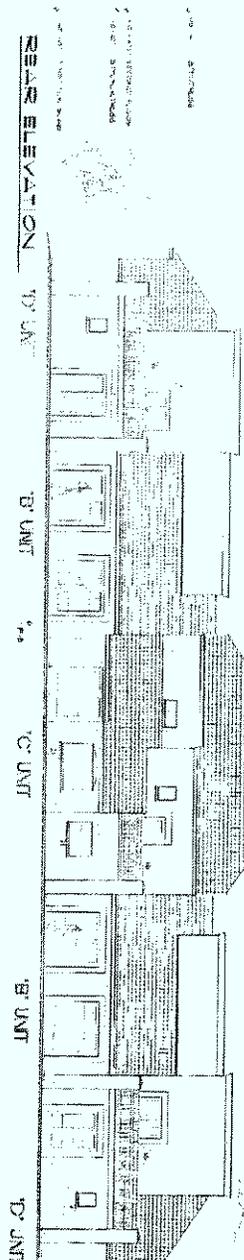
Exhibit "F"

Parcel 1 Residential Narrative Description and Design Criteria



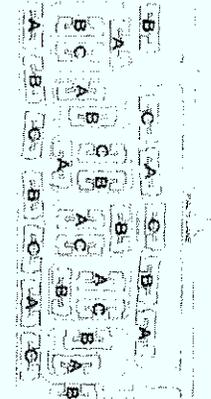
**BUILDING ELEVATIONS**  
**KEY NOTES**

1. 6" x 6" BRUSHED ALUMINUM CORNER BRACKETS
2. 2" x 4" BRUSHED ALUMINUM BRACKETS
3. 1/2" x 1/2" BRUSHED ALUMINUM BRACKETS
4. 1/2" x 1/2" BRUSHED ALUMINUM BRACKETS
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27. 1/2" x 1/2" BRUSHED ALUMINUM BRACKETS
28. 1/2" x 1/2" BRUSHED ALUMINUM BRACKETS
29. 1/2" x 1/2" BRUSHED ALUMINUM BRACKETS
30. 1/2" x 1/2" BRUSHED ALUMINUM BRACKETS



**EXTERIOR FINISH SCHEDULE**

GROUP	DESCRIPTION	FINISH	NOTES
A	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
B	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
C	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
D	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
E	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
F	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
G	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
H	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
I	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
J	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
K	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
L	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
M	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
N	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
O	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
P	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
Q	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
R	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
S	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
T	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
U	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
V	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
W	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
X	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
Y	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	
Z	BUILDING BODY PAINT	FLUOROPOLYMER EMULSION PAINT	



**ZONING REVIEW**

GREENLIGHT REAL ESTATE LLC  
11010 WEST MCGRAW HILL ROAD  
AVONDALE, ARIZONA 85023  
Sherbondy Art & Architecture, AIA  
PHOTOGRAPHY: JEFFREY W. HARRIS

**Palm Lane Townhomes**  
11600 WEST PALM LANE  
AVONDALE, ARIZONA

**ORDINANCE NO. 1165-106**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 80 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF VAN BUREN STREET AND 103RD AVENUE AS SHOWN IN FILENAME A-03-622, REZONING SUCH PROPERTY FROM AGRICULTURAL (AG) TO PLANNED AREA DEVELOPMENT (PAD) AND IMPOSING CONDITIONS UPON SUCH CHANGE.

**WHEREAS**, the Council of the City of Avondale (the "City Council") desires to amend the City of Avondale Zoning Atlas (the "Zoning Atlas") pursuant to ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, all due and proper notices of public hearings on the intended amendment to be held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, the Commission held a public hearing on Thursday, December 15, 2005, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, the City Council held a public hearing regarding the amendment to the Zoning Atlas on January 17, 2006.

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

**SECTION 1.** That  $\pm$  80 acres of certain real property generally located at the northwest corner of Van Buren Street and 103rd Avenue as shown in filename A-03-622 (the "Property"), more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned from Agricultural (AG) to Planned Area Development (PAD), subject to the following conditions:

1. Development shall be in conformance with the Three Rivers Commerce Center General Development Plan date stamped December 5, 2005 except as modified by these stipulations.
2. In accordance with Section 607.A of the Zoning Ordinance, development of the first development unit shall commence within two (2) years of the date upon which the PAD zoning is approved.

3. Access to all parcels shall be provided by interior local streets only as determined at the time of master site plan approval. No parcels or individual lots shall be allowed direct access to Roosevelt Street, Van Buren Street, 103rd Avenue, or 105th Avenue.
4. Perimeter walls shall be installed adjacent to all streets. The design of all perimeter walls shall match Exhibit I. All interior screen walls shall match the architecture of the building.
5. All signage shall comply with the City of Avondale Sign Ordinance with the following exceptions:
  - a. Entry monuments that identify the commerce park shall be permitted per the General Development Plan and Program and these stipulations.
  - b. Each parcel shall have no more than one freestanding sign. The location of the signs shall be limited to the interior street.
  - c. The provisions of Section 909.C.6 concerning a freeway pylon sign shall not apply.
  - d. Sign fields for all wall signs shall be determined at time of final site plan approval. In addition, the sign cannot exceed 80% of the length or 70% of the height of the sign field.
  - e. Exposed raceways shall not be permitted.
  - f. Commerce park identification signs shall be provided at the intersections of all streets and the entrances into the park as determined at time of master site plan approval.
6. Automobile related uses shall only be permitted as part of a master planned automobile center with a maximum size of ten acres adjacent to Roosevelt Street.
7. All vehicle sales and leasing type uses shall be prohibited.
8. Prior to division of the property, a property owner's association shall be formed and funded for the maintenance of perimeter walls, landscaping, common open space areas, and center monument signage. A property owner's association will be formed with covenants, conditions and restrictions (CC&Rs) outlining responsibilities for maintenance of common tracts and regulations for consistency and maintenance of the project, including but not limited to landscaping, screen walls and individual signage prior to issuance of a building permit on any portion of Parcels A or B.
9. The landscaping for 103rd Avenue shall include the street tree theme.
10. Pedestrian refuge areas with a minimum of 100 square feet shall be provided for each individual lot. Each pedestrian refuge area shall include seating, landscaping and shade.
11. The developer shall provide a traffic study at the time of master site plan approval. The study shall include analysis for future traffic signals.
12. The developer shall be responsible for their proportionate share of the cost of the design and construction of any traffic signals as determined at the time of master site plan approval.
13. Street improvements shall be required as follows as determined by the City Engineer:

<b>Street</b>	<b>Right-of-way Required</b>	<b>Street Improvements</b>
Van Buren Street	65' half street	3.5 travel lanes, bike lane, curb and gutter, detached sidewalks, street lights and landscaping.
103rd Avenue	40' half street	1.5 travel lanes, curb and gutter, attached sidewalks, street lights and landscaping
Roosevelt Street	35' half street	1.5 travel lanes, curb and gutter, detached sidewalks, street lights and landscaping.
105th Avenue	40' half street	1.5 travel lanes, bike lane, curb and gutter, attached sidewalks, street lights and landscaping
Pierce Street	80' full street	2 travel lanes, median, curb and gutter, attached sidewalks, street lights and landscaping
Internal Local Streets	60' full street	1 travel lane, curb and gutter, detached sidewalks, street lights and landscaping.

14. Street improvements adjacent to Parcel A shall include the full length of the south half of Roosevelt Street, the full length of the east half of 105th Avenue, the full length of the west half of 103rd Avenue and the full width of Pierce Street. The improvements for all street segments adjacent to Parcel A shall include pavement, curb and gutter and streetlights. Landscaping and sidewalks shall be installed as determined at time of master site plan approval.
15. Street improvements adjacent to Parcel B shall include the full length of the north half of Van Buren Street, the full length of the east half of 105th Avenue, the full length of the west half of 103rd Avenue and the full width of Pierce Street. The improvements for all street segments adjacent to Parcel A shall include pavement, curb and gutter and streetlights. Landscaping and sidewalks shall be installed as determined at time of master site plan approval.
16. To the extent allowed by law, all Type 1 and Irrigation Grandfathered Groundwater Rights appurtenant to the property shall be properly extinguished and the resulting Assured Water Supply credits pledged to the City of Avondale's account at the Arizona Department of Water Resources prior to division of the property.

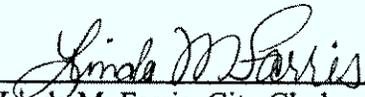
**SECTION 2.** If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3.** That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose of this Ordinance.

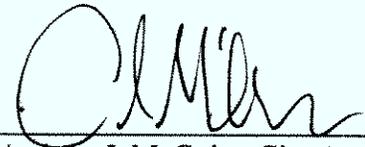
**PASSED AND ADOPTED** by the Council of the City of Avondale, January 17, 2006.

  
Marie Lopez-Rogers, Mayor

ATTEST:

  
Linda M. Farris, City Clerk

APPROVED:

  
Andrew J. McGuire, City Attorney

**City Council Regular Meeting – Excerpt of Meeting Minutes  
March 20, 2006**

**8) PUBLIC HEARING – ORDINANCE 1174-306 – AVONDALE  
MARKETPLACE PAD – Z-04-12**

A public hearing and adoption of Ordinance 1174-306 rezoning from AG (Agricultural) to PAD (Planned Area Development) 54.53 acres located at the northwest corner of Avondale Boulevard and McDowell Road.

Dean Svoboda, Planning and Building Services Director, stated the property is irregularly shaped, with PAD zoning on the north and county jurisdiction on the west and east ends of the property. He said the area to the east, across Avondale Boulevard, has been designated on the northeast corner for neighborhood commercial type uses and on the southeast corner for community commercial uses and industrial park. He noted the PAD south of McDowell Road also allows community level commercial uses. He stated the site is bordered on the west by an electrical substation and a couple exception parcels are located in the northeast corner adjacent to Avondale Boulevard, noting the development plan takes both of those conditions into consideration. He said the city's General Plan was recently amended by the Council to mixed use commercial to allow flexibility on the site to account for some of its unique contextual relationships to the substation and residential area to the north. He pointed out the General Plan on the north side of McDowell Road indicates a preference for neighborhood commercial uses rather than freeway commercial uses seen on the south side of McDowell and along Avondale Boulevard. He said the proposed plan calls for three sub-areas, a 13.3 acre area at the east end for office and mini-storage use, 16 acres that front on to Palm Lane for residential, and just over 26 acres on the corner of Avondale Boulevard and McDowell Road for commercial and office. He noted the applicant intends to make improvements to Avondale Boulevard and McDowell Road during the first phase of development. He said a number of access points have been provided and staff believes an overall circulation plan should be submitted with the first master site plan. He stated, while the circulation plan shows internal connections between the office area and commercial office area, staff believes it should also show an internal connection for the mini-storage and office area. He said there is also a need for secondary emergency access from the mini-storage area to the office commercial area. He pointed out a cross connection is not anticipated between the residential and commercial areas to prevent the mixing of commercial and residential traffic. He said, however, the stipulations provide for pedestrian circulation between the residential area and commercial property. He stated the applicant will be responsible for its proportionate share of a traffic signal at McDowell Road and Avondale Boulevard and up to 25 percent of the cost of a signal at Avondale Boulevard and Palm Lane if one is warranted.

Mr. Svoboda explained the commercial area is a combination of Commercial Office, C-2 and C-1 uses which have been tailored to meet the needs of the area and ensure compatibility. He stated the sale of new merchandise in stores measuring up to 100,000 square feet is permitted, as are personal services, medical office, banks, full service restaurants, veterinary offices, video and CD rental, auto leasing subject to conditions, mini-storage only on Parcel 3, health and fitness centers with a maximum floor area of

3,000 square feet, laundry and dry cleaning facilities subject to conditions, and drive-thru restaurants and banks subject to conditions. He said Conditional Use Permits would be required for child care facilities, larger health and exercise centers, big box users with a gross floor area over 100,000 square feet, indoor commercial entertainment, auto supply stores, business and technical schools, churches and general schools and educational institutions. He stated prohibited uses include a wide range of auto related repair, auto sales, car washes, gas stations, convenience stores, hotels and motels, self service laundries, various liquor establishments, and office warehouses. He said the design standards reflect the Freeway Corridor Specific Plan as it relates to setbacks and the boulevard concept for McDowell Road and Avondale Boulevard where the specific plan does not necessarily require it at that location. He stated a number of design guidelines are included in the PAD with the intent being to set minimums regarding the architectural character and quality and the design of the buildings. He noted, however, colors and materials will be determined at the time of master site plan review and approval. He said a sign package is also included in the proposal, calling for monument signs to accommodate the mini-storage and office parcel and three separate freestanding signs for the retail and commercial area.

Mr. Svoboda stated the residential area will accommodate either attached or detached single family houses, with a maximum density of 8.5 units per acre. He said the concept discussed to date has been similar to some of the rear-loaded single family units with private access drives to the rear; however, the actual layout and density will be determined with the Preliminary Plat. He said development standards for the residential are included in the PAD and are designed to reflect a unique rather than traditional single family product. He stated two buffers will be provided in the single family area, a 100-foot wide open space adjacent to the substation and a 50-foot landscape buffer from Palm Lane.

Mr. Svoboda said staff believes the PAD meets the requirements of the General Plan and Freeway Corridor Specific Plan as well as the requirements for PAD zoning, and will result in quality and compatible development. He stated the Planning Commission recommended approval on February 16, subject to 29 stipulations. He said staff recommends approval subject to the same stipulations except for the slightly modified language for Stipulation 29 and two additional stipulations to address Conditional Use Permit requirements and the establishment of a master theme for the project. He noted he and the applicant's representative had a discussion just before the meeting and staff is now recommending an additional stipulation which will amend the ordinance before the Council. He explained the stipulation will read, "The Preliminary Plat for the residential area may be submitted concurrent with the first master site plan for the office commercial area."

Mayor Rogers opened the public hearing on Case No. Z-04-12.

Council Member Lynch expressed concern that they will end up with a row of signs along McDowell Road. Mr. Svoboda explained there will be one monument sign allowed for the mini-storage, one for the adjacent office development on Parcel 4, and

three signs allowed for Parcel 2, one of which would be on Avondale Boulevard. He stated, given the length of the property, staff believes the number of signs will not be excessive.

Council Member Lynch asked if the two acres owned by SunCor located against the substation are included in the PAD. Mr. Svoboda said all of the property adjacent to the street alignment is somewhat problematic, explaining, although designated in the General Plan for single family development, the property is impacted by easements from the substation. He confirmed the property is not part of the subject project.

Council Member Lynch asked about the size of the single family residences. Mr. Svoboda said the size of those units has not yet been finalized. Philippe Zubia, applicant's representative, stated the buyer who had the property in escrow at the time had intended for all of the units to be a minimum of three bedrooms. Council Member Lynch asked if they envision work force housing. Mr. Zubia asked what that term meant. Council Member Lynch explained and Mr. Zubia responded no, stating he would characterize it as move-up housing. Council Member Lynch asked about the price range. Mr. Zubia said their initial starting price was about \$200,000 to \$250,000.

Council Member Lynch said she has mixed emotions about the lack of vehicular access between the residential and commercial uses, stating families in the residential area will have to go all the way around the block to access the center. Mr. Zubia said residents would be able to access the site on foot through a gated entry. Council Member Lynch stated that could be difficult for a mother with several children and multiple shopping bags.

Council Member Weise expressed concern that investors will purchase the residences, stating the best way to attack the problem is for the developer to include a stipulation in the CC&Rs limiting the number of rental properties allowed in the development. He asked Mr. Zubia if the applicant would be willing to put such a stipulation in the CC&Rs. Mr. Zubia responded not at this time since they do not have a user with a finalized product yet. He offered to restrict the developer from selling more than one unit to a family, stating that would keep the property from becoming investor driven. He pointed out homebuilders typically limit investment purchases on their own. Council Member Weise asked if the applicant would agree to a stipulation requiring the homebuilder to take steps to limit investment purchases. He explained his concern is that people who have no investment in the community will purchase the properties and rent them out without concern about negative impacts to the surrounding neighborhood. Mr. Zubia said some homebuilders self regulate not only to protect themselves, but the community as well. He stated they are certainly willing to discuss the issue further and are open to adding a stipulation regulating rental properties.

Council Member Buster asked if the mini-storage facility fronts onto McDowell. Mr. Zubia responded yes; noting, however, there will be minimal frontage with the majority of the units backing onto the substation area.

Vice Mayor Wolf asked if they can discuss Council Member Weise's concern regarding rental properties at the site plan approval stage. Mr. Svoboda stated staff typically gives a cursory review of the CC&Rs at the preliminary and final plat stages. He agreed that might be a more appropriate time to address the issue since the developer may be known by then. Vice Mayor Wolf stated, while he supports a homeowner's right to rent their properties out in the future if they so choose, he agrees they need to initially control the number of investment buyers. Mr. Svoboda said there is very little the city can do in terms of zoning to address the issue, but they can work with private homebuilders and developers to encourage them to place restrictions in their CC&Rs with the understanding that the city has no power to enforce CC&Rs.

Mayor Rogers closed the public hearing on this item.

Andrew McGuire, City Attorney, read Ordinance 1174-306 by title only. Vice Mayor Wolf moved to approve the ordinance subject to an amendment adding Stipulation 32. Council Member Lynch seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Council Member Earp	Aye
Council Member Scott	Aye
Council Member Buster	Aye
Mayor Rogers	Aye
Vice Mayor Wolf	Aye
Council Member Lynch	Aye
Council Member Weise	Aye

Motion carried unanimously.

*SUMMARY OF RELATED FACTS  
APPLICATION Z-09-3*

<i>THE PROPERTY</i>	
PARCEL SIZE	54.53 Net Acres
LOCATION	Northwest corner of Avondale Boulevard and McDowell Road.
PHYSICAL CHARACTERISTICS	The site is irregular in shape and generally slopes to the southwest.
EXISTING LAND USE	Agriculture
EXISTING ZONING	AG (Agricultural)
ZONING HISTORY	March 6, 2006
DEVELOPMENT AGREEMENT	None

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	PAD (Palm Garden) – single family residential
EAST	R-6 (Donatela I) and C-1 - Grading
SOUTH	PAD (Crystal Gardens Commercial) – Agricultural
WEST	Rural 43 (Maricopa County) - Vacant

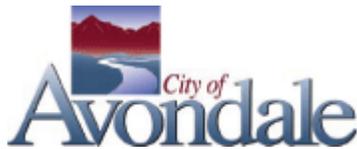
<i>GENERAL PLAN</i>	
Amended from Commercial to Mixed-Use on October 3, 2005	

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Pendergast Elementary and Tolleson Union High School
ELEMENTARY SCHOOL	Canyon Breeze Elementary School
HIGH SCHOOL	Westview High School

<i>STREETS</i>	
<b>McDowell Road</b>	
Classification	Arterial
Existing half street ROW	55-65 feet
Standard half street ROW	65 feet
Existing half street improvements	Two traffic lanes with center turn lane at the Avondale Blvd. Intersection.
Standard half street improvements	Three traffic lanes with center turn lane and median. Paving, curb, gutter, detached sidewalk, landscaping and street lights. Deceleration lanes as deemed necessary by City Engineering at time of final

	improvement plan approval.
<b>Avondale Boulevard</b>	
Classification	Arterial
Existing half street ROW	55-65 feet
Standard half street ROW	55-65 feet
Existing half street improvements	One traffic lane with center turn lane at McDowell Road intersection.
Standard half street improvements	Three traffic lanes with center turn lane and median. Paving, curb, gutter, detached sidewalk, landscaping and street lights.
<b>Palm Lane</b>	
Classification	Local
Existing half street ROW	0 feet
Standard half street ROW	25 feet
Existing half street improvements	None.
Standard full street improvements	1 travel lane, paving, curb and gutter, attached sidewalks, street lights and landscaping.

<i>UTILITIES</i>	
<p>A 21” sanitary sewer runs along the entire McDowell Road frontage. A 10” and 12” sanitary sewer runs along Palm Lane.</p> <p>A 12” waterline runs along McDowell Road. A 16” waterline runs along Avondale Boulevard An 8” water line runs along Palm Lane.</p>	



# DEVELOPMENT SERVICES

**SUBJECT:**  
Master Site Plan and Parcel 2 Final Site Plan  
Approval Extension - Avondale Marketplace (DR-09-2)

**MEETING DATE:**  
August 10, 2009

**TO:** Mayor and Council  
**FROM:** Brian Berndt, Development Services Director (623) 333-4011  
**THROUGH:** Charlie McClendon, City Manager (623) 333-1015

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**REQUEST:** Extend the approval of the Avondale Marketplace Master Site Plan and Parcel 2 Final Site Plan for one year from the date of original approval, until March 17, 2010.

**PARCEL SIZE:** 38.6 acres

**LOCATION:** Northwest corner of Avondale Boulevard and McDowell Road (Exhibits A and B)

**APPLICANT:** Mr. Blake Carroll, Troast Properties (602) 317-6170

**OWNER:** Multiple Owners: Mr. Gregory P. Troast, Troast Properties of Arizona (480) 390-4162; Mr. Lewis Patrick, Patrick Properties, Incorporated (480) 905-9180

**BACKGROUND:**

On March 17, 2008, the City Council approved a Master Site Plan (Exhibit D) for Avondale Marketplace, a Planned Area Development (PAD) located at the northwest corner of Avondale Boulevard and McDowell Road. A landscape plan (Exhibit E), preliminary grading & drainage plan, photometric plan, materials & colors board, and comprehensive sign plan were included as part of the Master Site Plan approval.

The Avondale Marketplace PAD, approved in March 2006, separates the property into four "parcels" intended to create a mix of uses on the property. The approved Master Site Plan includes three of the four parcels as laid out within the PAD, as follows:

- **Parcel 2** includes approximately 214,000 square feet of retail/restaurant floor area comprised of fourteen buildings on 21.58 net acres. A Final Site Plan for Parcel 2 was approved concurrently with the master site plan; building elevations (Exhibit F) for five of the fourteen proposed commercial buildings were included as part of the approval.
- **Parcel 3** includes approximately 103,000 square feet of mini-storage floor area comprised of four buildings on 4.44 net acres.
- **Parcel 4** includes approximately 75,000 square feet of garden office floor area comprised of 11 buildings on 8.10 net acres.
- **Parcel 1**, the portion of the PAD reserved for high density residential use, is excluded from the approved Master Site Plan. A separate master site plan application for that portion of the PAD will be required prior to development of Parcel 1.

The approval was subject to 21 stipulations (Exhibit G), including a standard stipulation (Stipulation #2) which specified an expiration date for the site plan approval. The stipulation reads, "In accordance with Section 106.C.4 of the City of Avondale Zoning Ordinance, the Master Site Plan and Parcel 2 Final Site Plan shall expire within one year of approval if a building permit has not been issued." The applicant was also stipulated to submit a revised traffic study to evaluate the impacts of reducing access to the site, the result of changing a full-access driveway to a right-out-only driveway to eliminate the need to acquire adjacent property to construct a deceleration lane of sufficient length.

In the 14 months since approval of the master site plan, the applicant has not submitted final construction documents, civil improvement plans, or a revised traffic study. The applicant cites a lack of committed tenants to the retail portion of the development as well as a temporary loss of financing as the primary causes for the project's delay (Exhibit C).

The applicant submitted this request for time extension on February 11, 2009, prior to expiration of the master site plan on March 17, 2009. At staff's bequest, the item was delayed from proceeding to City Council so that it could appear on the same meeting agenda as Application Z-09-2, a major amendment to the Avondale Marketplace PAD. The proposed PAD amendment, which would have allowed for phasing of off-site infrastructure improvements, was withdrawn by its applicant on July 20, 2009 after receiving a recommendation of denial at the July 16<sup>th</sup> Planning Commission meeting. Because the time extension request was made prior to expiration, the City Council may extend the Master Site Plan one additional year from the date of expiration, until March 17, 2010.

#### **SUMMARY OF REQUEST:**

The applicant is requesting that the City Council grant a one-year extension for the Avondale Marketplace Master Site Plan and Parcel 2 Final Site Plan to allow Troast Properties additional time to secure tenants for the retail center. If required, future extensions will be evaluated in the same manner as this request.

#### **ANALYSIS:**

The approved site plan remains in substantial conformance with applicable requirements set forth in the Avondale Marketplace PAD, Freeway Corridor Specific Plan, Avondale Zoning Ordinance, and Design Manual for Commercial, Industrial, and Multi-Family Residential Development, with the following exceptions:

- The site plan was approved in conformance with the landscaping standards contained in Section 12 of the Zoning Ordinance as it existed prior to adoption of the new Landscaping and Walls Ordinance in June 2009. The new Ordinance, amongst several significant changes, requires larger tree sizes, increases the number of required plantings, and increases the minimum landscape area required per site. If proposed today, the Avondale Marketplace landscape plan would need significant upgrades in order to meet the current requirements. It is specifically noted, however, that landscape plans approved prior to the adoption of the new Ordinance are exempted from adhering to the new, more rigorous requirements by Section 1202.B.2.
- The master site plan was approved prior to the adoption of the City's Public Art Ordinance. Under the terms of the new Ordinance, the developer would be required to contribute 0.25 percent of the project's construction cost, not to exceed a maximum of \$150,000.00, to the City's Public Art Fund.

Development of the subject property with the previously approved set of uses will result in significant economic growth for the City. Imposition of the current landscaping and public art requirements on the site developer would add significant cost to the project, both in terms of redesign and construction, and may result in development delays beyond what can currently be anticipated. Staff

remains confident that, in spite of the two shortcomings cited above, the approved Avondale Marketplace development will assist in creating a satisfactory transition between the primarily suburban residential uses of North Avondale and the future urbanized City Center core.

A request to extend the Avondale Marketplace PAD (Application Z-09-3) is also on this evening's agenda and is scheduled to be heard prior to this Master Site Plan extension request. Please note, if the PAD extension is denied, the site plan will no longer be in conformance with the approved zoning on the property and cannot be approved.

#### **RECOMMENDATION:**

***If the PAD Extension (Application Z-09-3) is approved:*** Staff recommends that the City Council approve the time extension request for the Avondale Marketplace Master Site Plan and Parcel 2 Final Site Plan until March 17, 2010.

***If the PAD Extension (Application Z-09-3) is denied:*** Staff recommends that the City Council deny the time extension request for the Avondale Marketplace Master Site Plan and Parcel 2 Final Site Plan.

#### **PROPOSED MOTION:**

***If the PAD Extension (Application Z-09-3) is approved:*** I move that the City Council **GRANT** a time extension for the Avondale Marketplace Master Site Plan and Parcel 2 Final Site Plan until March 17, 2010.

***If the PAD Extension (Application Z-09-3) is denied:*** I move that the City Council **DENY** the time extension for the Avondale Marketplace Master Site Plan and Parcel 2 Final Site Plan.

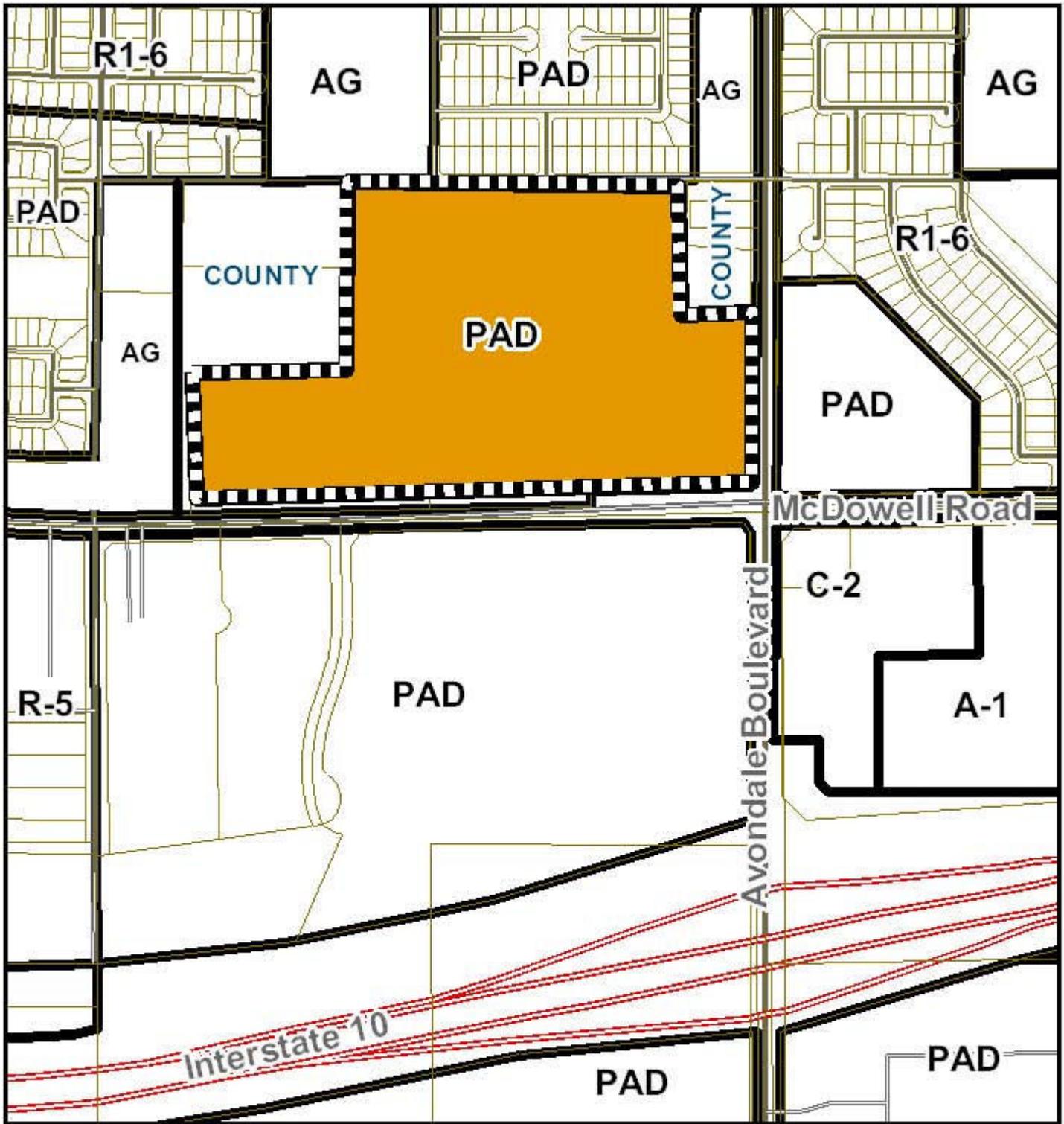
#### **ATTACHMENTS:**

##### **Click to download**

- 📄 [Exhibit A - Zoning Vicinity Map](#)
- 📄 [Exhibit B - Aerial Photograph](#)
- 📄 [Exhibit C - Applicant's Site Plan Extension Request, letter dated February 11, 2009](#)
- 📄 [Exhibit D - Approved Avondale Marketplace Master Site Plan](#)
- 📄 [Exhibit E - Approved Avondale Marketplace Landscape Plan](#)
- 📄 [Exhibit F - Approved Avondale Marketplace Building Elevations \(Majors B&E, Pads B&F, and Shops C\)](#)
- 📄 [Exhibit G - Avondale Marketplace Site Plan approval letter, dated May 7, 2008](#)
- 📄 [Exhibit H - Excerpt from City Council Minutes, Regular Meeting of March 17, 2008](#)
- 📄 [Exhibit I - Summary of Related Facts](#)

#### **PROJECT MANAGER:**

Ken Galica, Planner II (623) 333-4019

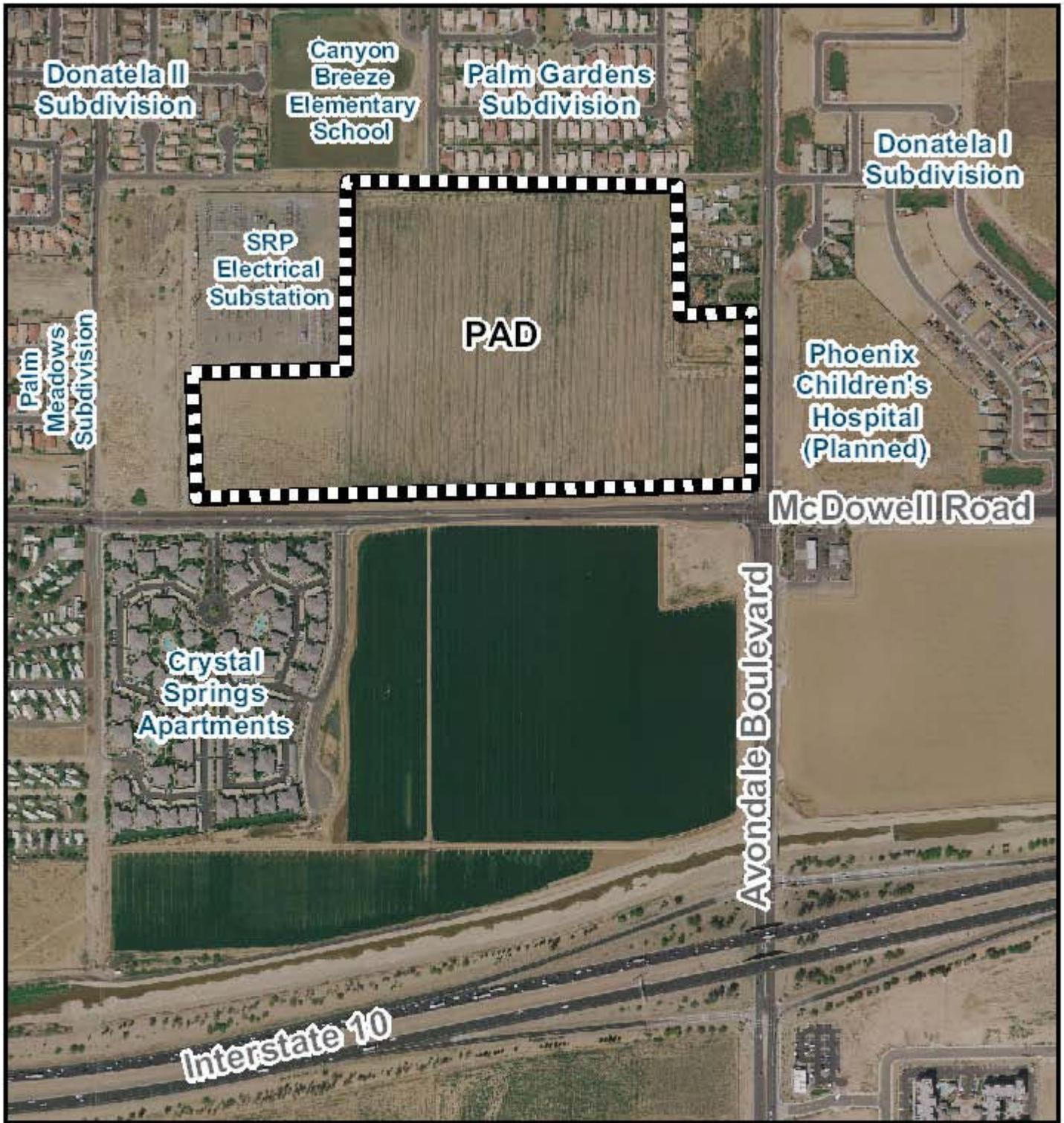


### Zoning Vicinity Map

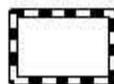


Subject Property





2008 Aerial Photograph



Subject Property





February 11<sup>th</sup>, 2009

City of Avondale  
Planning and Building Services  
Attn: Ken Galica  
11465 W. Civic Center Drive, #110  
Avondale, AZ 85323

RE: Avondale Marketplace Site Plan Extension

Mr. Galica:

Pursuant to the City of Avondale's Site Plan Extension Checklist, this letter is to provide an explanation of why Avondale McDowell Marketplace LLC is in need of an extension on our Site Plan.

Over the past year we have been working diligently with our marketing team to come up with additional tenants for our Development, but due to current market conditions, it has made it very difficult to get solid commitments from user groups. Coupled with the fact marketing in general has slowed, the bank we had financing our project failed and was taken over by the FDIC. At no fault of our own we were put in this position by our lender, but we have since come up with alternate financing for the Development.

A Site Plan Extension would allow us to continue with the Development we have put a great deal of time and effort in, to ultimately be a successful venture.

Sincerely,

  
Gregory P. Troast  
Managing Member

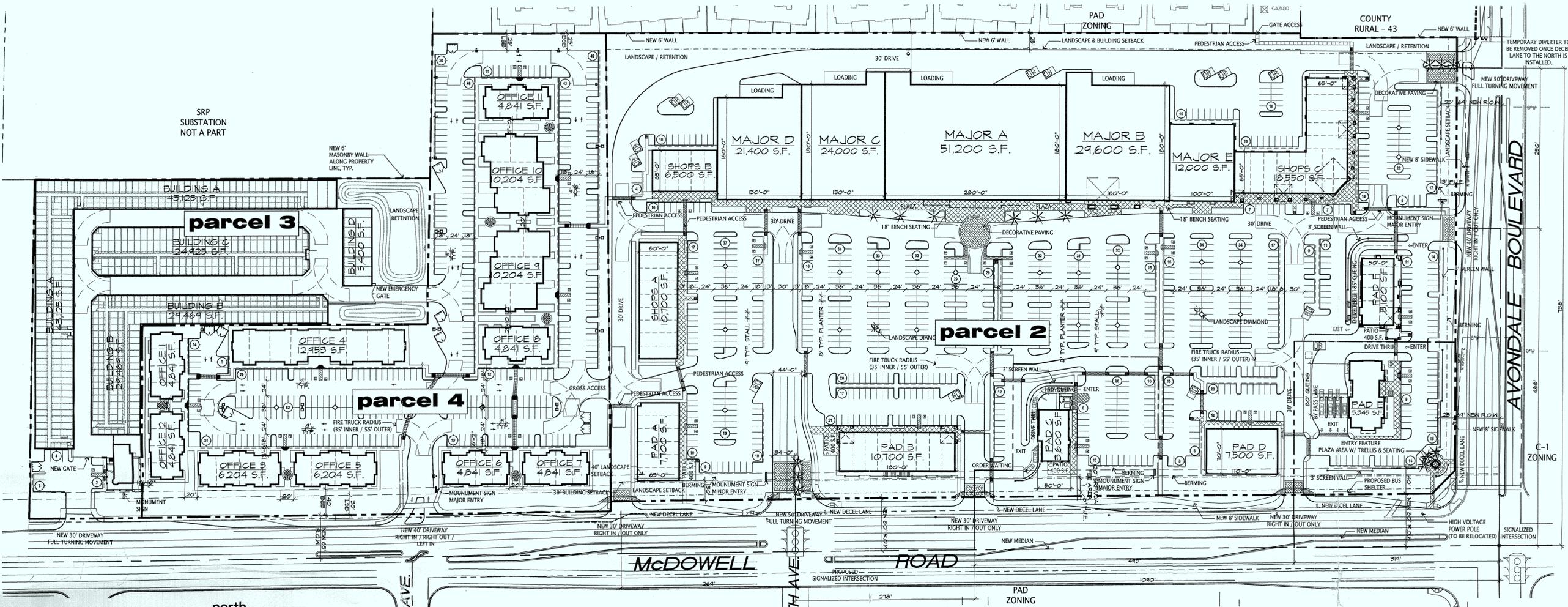
# Exhibit D

**ROB KAWIAK**  
Architects And Associates, Inc.

PRELIMINARY  
NOT FOR RECORDING  
date 02-25-08

AVONDALE MARKETPLACE  
NWC Avondale Blvd. and McDowell Road  
Avondale, Arizona

design KDK  
drawn EF  
check HU  
sheet MSP-1  
of  
job 06264



## Master site plan

Scale: 1" = 80'-0"



## Allowed uses

Parcel 2, 3 and 4 constitute the Commercial Office... This area will allow various commercial and office land uses listed... Permitted Uses - The following uses are authorized: retail sales of new merchandise within enclosed buildings; personal services; hair salons, nail salons, beauty salons, tanning salons; Spa (which provides a variety of personal services such as manicures and pedicures, makeup, facials, tanning, etc.); and other related services) excluding Sexually Transmitted Diseases and tattoo parlors; medical dental, or health offices; day care center; music or dance schools; day camps and financial institutions; service restaurants, delis, coffee shops, and similar eating establishments; Tailoring; professional and administrative offices; employment agencies excluding day labor centers; primary hospital, office, and clinic, excluding animal boarding; schools and educational institutions; video and/or music CD/DVD rental or sale.

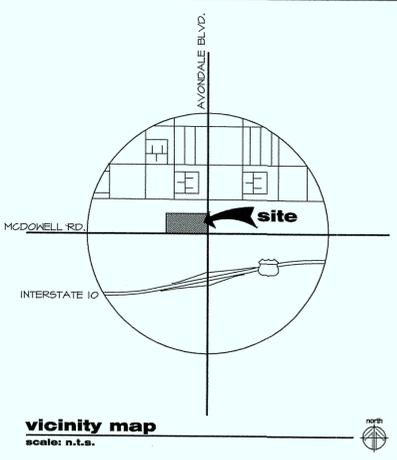
Prohibited Uses - The following uses are prohibited:  
 1. Auto diagnostic, lube and tune, auto service, auto repair, auto body, or any other similar automotive use;  
 2. Sexually Oriented Businesses;  
 3. Bar, tavern, cocktail lounge, excluding restaurants, delis, or cafes;  
 4. Automatic, full service, or self service carwashes;  
 5. Car sales, new or used;  
 6. Day labor hiring center;  
 7. Gas service station;  
 8. Hotel or motel;  
 9. Self service Laundromat;  
 10. Liquor stores;  
 11. Office warehouse;  
 12. Outdoor display, except through a Temporary Use Permit and outdoor uses, excluding outdoor dining;  
 13. Shooting ranges;  
 14. Any use not expressly permitted herein.

### parcel 2

EXISTING ZONING:	PAD
GROSS SITE AREA:	25.23 ACRES (1,099,126 S.F.)
NET SITE AREA:	21.58 ACRES (939,895 S.F.)
PROPOSED USE:	NEIGHBORHOOD RETAIL CENTER
BUILDING AREA:	
MAJOR A:	51,200 S.F.
MAJOR B:	29,600 S.F.
MAJOR C:	24,000 S.F.
MAJOR D:	21,400 S.F.
MAJOR E:	12,000 S.F.
SHOPS A:	10,700 S.F.
SHOPS B:	6,500 S.F.
SHOPS C:	12,550 S.F.
PAD A:	7,700 S.F.
PAD B:	10,700 S.F.
PAD C:	3,600 S.F.
PAD D:	7,500 S.F.
PAD E:	5,345 S.F.
PAD F:	5,000 S.F.
TOTAL BUILDING AREA:	213,795 S.F.
SITE COVERAGE:	22.4 %
PARKING REQUIRED:	345 SPACES
MAJOR A, B, C, D, E (539,200 S.F.) RETAIL (336,200 S.F.) 1/300 S.F. = 461 SPACES SHOPS A (10,700 S.F.) SHOPS B (6,500 S.F.) 1/300 S.F. = 22 SPACES SHOPS C (12,550 S.F.) RETAIL (33,500 S.F.) 1/300 S.F. = 46 SPACES RESTAURANT (5,000 S.F.) 1/50 S.F. 50% G.F.A. (2,500 S.F.) = 50 SPACES PAD A & B (18,400 S.F.) RETAIL (33,400 S.F.) 1/300 S.F. = 45 SPACES RESTAURANT (5,000 S.F.) 1/50 S.F. 50% G.F.A. (2,500 S.F.) = 50 SPACES OUTDOOR PATIO (800 S.F.) 1/200 S.F. = 4 SPACES PAD C (3,600 S.F.) RESTAURANT (3,600 S.F.) 1/50 S.F. 50% G.F.A. (1,800 S.F.) = 36 SPACES OUTDOOR PATIO (400 S.F.) 1/200 S.F. = 2 SPACES PAD D (7,500 S.F.) RETAIL (7,500 S.F.) 1/300 S.F. = 25 SPACES PAD E (5,345 S.F.) BANK (5,345 S.F.) 1/150 S.F. = 36 SPACES PAD F (5,000 S.F.) RETAIL (5,000 S.F.) 1/300 S.F. = 10 SPACES RESTAURANT (2,000 S.F.) 1/50 S.F. 50% G.F.A. (1,000 S.F.) = 20 SPACES OUTDOOR PATIO (400 S.F.) 1/200 S.F. = 2 SPACES	
TOTAL PARKING PROVIDED:	887 SPACES (4.1 / 1000)
ACCESSIBLE SPACES REQUIRED: (2%)	18 SPACES
ACCESSIBLE SPACES PROVIDED:	34 SPACES

### parcel 3

EXISTING ZONING:	PAD
GROSS SITE AREA:	4.60 ACRES (200,471 S.F.)
NET SITE AREA:	4.44 ACRES (193,485 S.F.)
PROPOSED USE:	MINI STORAGE
BUILDING AREA:	
BUILDING A:	43,125 S.F.
BUILDING B:	29,469 S.F.
BUILDING C:	24,925 S.F.
BUILDING D:	5,400 S.F.
TOTAL BUILDING AREA:	102,919 S.F.
SITE COVERAGE:	53.2 %
PARKING REQUIRED:	7 SPACES
TOTAL PARKING PROVIDED:	10 SPACES
ACCESSIBLE SPACES REQUIRED: (2%)	1 SPACES
ACCESSIBLE SPACES PROVIDED:	1 SPACES

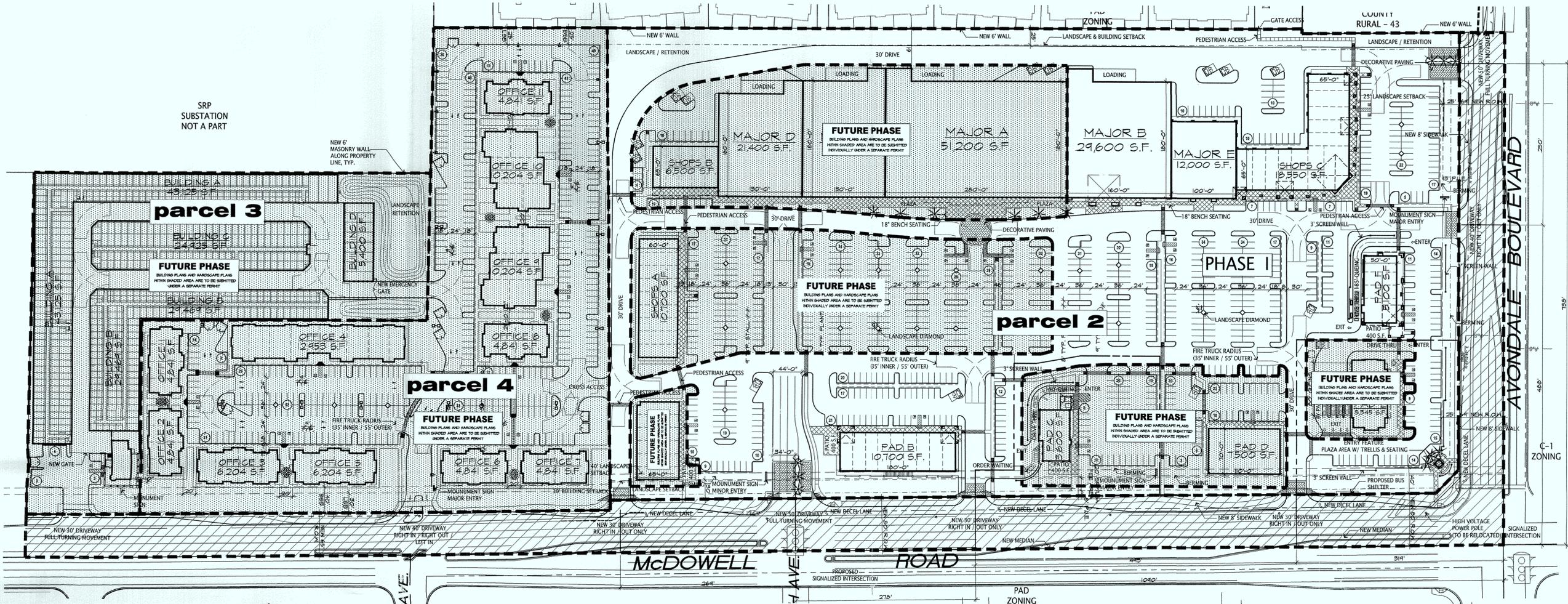


### parcel 4

EXISTING ZONING:	PAD
GROSS SITE AREA:	8.77 ACRES (381,898 S.F.)
NET SITE AREA:	8.10 ACRES (353,103 S.F.)
PROPOSED USE:	NEIGHBORHOOD RETAIL CENTER
BUILDING AREA:	
OFFICE 1:	4,841 S.F.
OFFICE 2:	4,841 S.F.
OFFICE 3:	6,204 S.F.
OFFICE 4:	12,953 S.F.
OFFICE 5:	6,204 S.F.
OFFICE 6:	4,841 S.F.
OFFICE 7:	4,841 S.F.
OFFICE 8:	4,841 S.F.
OFFICE 9:	10,204 S.F.
OFFICE 10:	10,204 S.F.
OFFICE 11:	4,841 S.F.
TOTAL BUILDING AREA:	74,815 S.F.
SITE COVERAGE:	21.1 %
PARKING REQUIRED:	325 SPACES
GENERAL OFFICE (44,816 S.F.) 1/250 S.F. = 200 SPACES GENERAL OFFICE (14,816 S.F.) 1/250 S.F. = 60 SPACES MEDICAL OFFICE 1 (24,938 S.F.) 1/200 S.F. = 125 SPACES MEDICAL OFFICE 2 (24,938 S.F.) 1/200 S.F. = 125 SPACES	
TOTAL PARKING PROVIDED:	372 SPACES (5.0 / 1000)
ACCESSIBLE SPACES REQUIRED: (2%)	8 SPACES
ACCESSIBLE SPACES PROVIDED:	16 SPACES

NOTE: THIS SITE PLAN HAS BEEN PREPARED WITHOUT THE AID OF A SURVEY. ALL PROPERTY BOUNDARIES ARE ROUGH APPROXIMATIONS. THIS DRAWING IS TO BE USED FOR CONCEPTUAL PURPOSES ONLY AND IT IS NOT TO BE THE BASIS FOR ANY LEGALLY BINDING DOCUMENTATION.

CITY COUNCIL  
 Approved  
 Denied  
 Approved with Conditions  
 DR-07-8  
 3/11/08  
 Date  
 City of Avondale  
 City Council  
 02-07-6



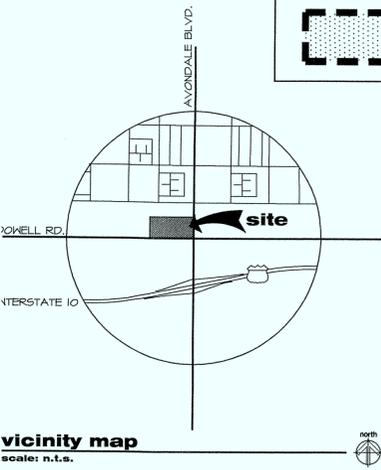
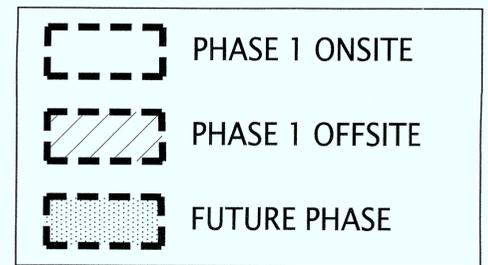
**Master phasing plan**

Scale: 1" = 80'-0"



PLAN HAS BEEN PREPARED WITHOUT THE AID OF ALL PROPERTY BOUNDARIES AND ROUGH LOCATIONS. THIS DRAWING IS TO BE USED FOR PURPOSES ONLY AND IT IS NOT TO BE THE ANY LEGALLY BINDING DOCUMENTATION.

**Legend**



**vicinity map**  
scale: n.t.s.

**parcel 2**

EXISTING ZONING: PAD

GROSS SITE AREA: 25.23 ACRES (1,099,126 S.F.)  
NET SITE AREA: 21.58 ACRES (939,895 S.F.)

PROPOSED USE: NEIGHBORHOOD RETAIL CENTER

<b>BUILDING AREA:</b>	
MAJOR A:	51,200 S.F.
MAJOR B:	29,600 S.F.
MAJOR C:	24,000 S.F.
MAJOR D:	21,400 S.F.
MAJOR E:	12,000 S.F.
SHOPS A:	10,700 S.F.
SHOPS B:	6,500 S.F.
SHOPS C:	18,550 S.F.
PAD A:	7,700 S.F.
PAD B:	10,700 S.F.
PAD C:	3,600 S.F.
PAD D:	7,500 S.F.
PAD E:	5,345 S.F.
PAD F:	5,000 S.F.

TOTAL BUILDING AREA: 213,795 S.F.  
SITE COVERAGE: 22.4 %

<b>PARKING REQUIRED:</b>	845 SPACES
<small>MAJOR A, B, C, D, E (138,200 S.F.) RETAIL (138,200 S.F.) 1/300 S.F. = 461 SPACES SHOPS A (10,700 S.F.) RETAIL (10,700 S.F.) 1/300 S.F. = 36 SPACES SHOPS B RETAIL (6,500 S.F.) 1/300 S.F. = 22 SPACES SHOPS C (18,550 S.F.) RETAIL (18,550 S.F.) 1/300 S.F. = 46 SPACES RESTAURANT (6,000 S.F.) 1/50 S.F. 50% @ F.A. (2,500 S.F.) = 50 SPACES PAD A &amp; B (18,200 S.F.) RETAIL (18,200 S.F.) 1/300 S.F. = 45 SPACES RESTAURANT (6,000 S.F.) 1/50 S.F. 50% @ F.A. (2,500 S.F.) = 50 SPACES OUTDOOR PATIO (800 S.F.) 1/200 S.F. = 4 SPACES PAD C (3,600 S.F.) RESTAURANT (3,600 S.F.) 1/50 S.F. 50% @ F.A. (1,800 S.F.) = 36 SPACES OUTDOOR PATIO (400 S.F.) 1/200 S.F. = 2 SPACES PAD D (7,500 S.F.) RETAIL (7,500 S.F.) 1/300 S.F. = 25 SPACES PAD E (5,345 S.F.) BANK (5,345 S.F.) 1/150 S.F. = 36 SPACES PAD F (5,000 S.F.) RETAIL (5,000 S.F.) 1/300 S.F. = 10 SPACES RESTAURANT (2,000 S.F.) 1/50 S.F. 50% @ F.A. (1,000 S.F.) = 20 SPACES OUTDOOR PATIO (400 S.F.) 1/200 S.F. = 2 SPACES</small>	
<b>TOTAL PARKING PROVIDED:</b>	887 SPACES (4.1 / 1000)
<b>ACCESSIBLE SPACES REQUIRED: (2%)</b>	18 SPACES
<b>ACCESSIBLE SPACES PROVIDED:</b>	34 SPACES

**parcel 3**

EXISTING ZONING: PAD

GROSS SITE AREA: 4.60 ACRES (200,471 S.F.)  
NET SITE AREA: 4.44 ACRES (193,485 S.F.)

PROPOSED USE: MINI STORAGE

<b>BUILDING AREA:</b>	
BUILDING A:	43,125 S.F.
BUILDING B:	29,469 S.F.
BUILDING C:	24,925 S.F.
BUILDING D:	5,400 S.F.

TOTAL BUILDING AREA: 102,919 S.F.  
SITE COVERAGE: 53.2 %

PARKING REQUIRED: 7 SPACES  
TOTAL PARKING PROVIDED: 10 SPACES

ACCESSIBLE SPACES REQUIRED: (2%) 1 SPACES  
ACCESSIBLE SPACES PROVIDED: 1 SPACES

**parcel 4**

EXISTING ZONING: PAD

GROSS SITE AREA: 8.77 ACRES (381,898 S.F.)  
NET SITE AREA: 8.10 ACRES (353,103 S.F.)

PROPOSED USE: NEIGHBORHOOD RETAIL CENTER

<b>BUILDING AREA:</b>	
OFFICE 1:	4,841 S.F.
OFFICE 2:	4,841 S.F.
OFFICE 3:	6,204 S.F.
OFFICE 4:	12,953 S.F.
OFFICE 5:	6,204 S.F.
OFFICE 6:	4,841 S.F.
OFFICE 7:	4,841 S.F.
OFFICE 8:	4,841 S.F.
OFFICE 9:	10,204 S.F.
OFFICE 10:	10,204 S.F.
OFFICE 11:	4,841 S.F.

TOTAL BUILDING AREA: 74,815 S.F.  
SITE COVERAGE: 21.1 %

PARKING REQUIRED: 325 SPACES

GENERAL OFFICE 1 (49,876 S.F.) 1/250 S.F. = 200 SPACES  
GENERAL OFFICE 2 (49,876 S.F.) 1/250 S.F. = 200 SPACES  
MEDICAL OFFICE 1 (24,938 S.F.) 1/200 S.F. = 125 SPACES  
MEDICAL OFFICE 2 (24,938 S.F.) 1/200 S.F. = 125 SPACES

TOTAL PARKING PROVIDED: 372 SPACES (5.0 / 1000)

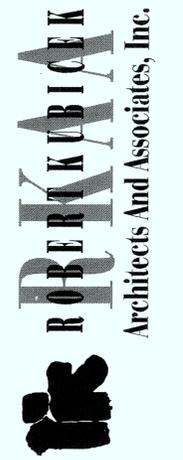
ACCESSIBLE SPACES REQUIRED: (2%) 8 SPACES  
ACCESSIBLE SPACES PROVIDED: 16 SPACES

CITY COUNCIL

Approved  Approved with Conditions

3/17/8  
Date

2233 East Thomas Road  
Phoenix, Az. 85016-9474  
(602) 955-3900 Phone  
(602) 955-0498 Fax  
www.rhsa.com



PRELIMINARY  
DATE FOR RECORDING  
date 01-28-08

**AVONDALE MARKETPLACE**  
NWC Avondale Blvd. and McDowell Road  
Avondale, Arizona

sheet design KDK  
drawn EF  
check KDK  
**MPP-1**  
of  
job 06264

# Exhibit E

**ROBERT KUBICEK**  
Architects And Associates, Inc.

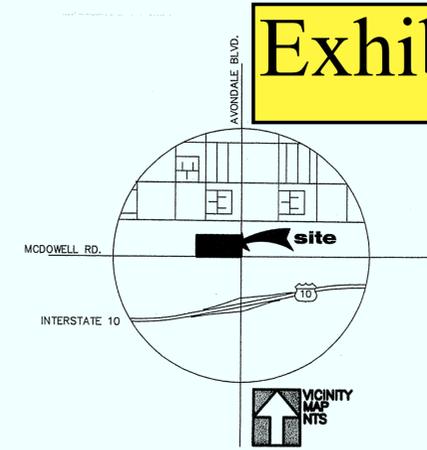


2633 East  
Phoenix  
(602) 263-1100  
(602) 263-1100



**NEW COMMERCIAL DEVELOPMENT**  
**TROAST PROPERTIES**  
**NWC Avondale Blvd. and McDowell Road**  
**Avondale, Arizona**

design  
drawn  
check  
sheet  
of  
job 06264



## PROJECT DIRECTORY

**DEVELOPER:**  
TROAST PROPERTIES  
7975 NORTH HAYDEN ROAD SUITE C310  
SCOTTSDALE, ARIZONA 85258  
CONTACT: MATT MACUIRE  
PHONE: (480) 747-2929  
FAX: (480) 452-1720  
E-MAIL: mmacuire@troastpropertiesaz.com

**ARCHITECT:**  
ROBERT KUBICEK ARCHITECTS & ASSOCIATES  
2233 EAST THOMAS ROAD  
PHOENIX, ARIZONA 85016  
CONTACT: KEVIN D. KERPAN  
PHONE: (602) 955-3900  
FAX: (602) 955-0496  
E-MAIL: kkerpan@kaa.com



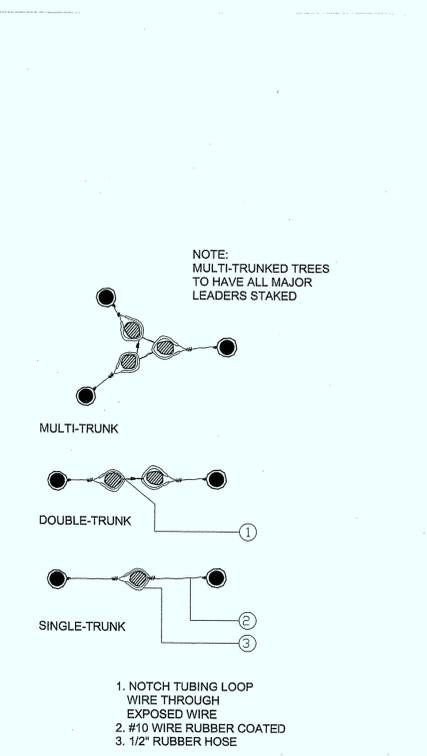
Symbol	Plant Name	Quantity
✱	CAESALPINIA MEXICANA MEXICAN BIRD OF PARADISE 5 GALLON - 380	
☀	AGAVE GEMINIFLORA TWIN FLOWERING AGAVE 5 GALLON - 395	
⊕	HESPERALOE PARVIFLORA RED YUCCA 5 GALLON - 788	
⊖	CALLIANDRA CALIFORNICA BAJA FAIRY DUSTER 5 GALLON - 308	
⊗	DASYLIRION WHEELERII DESERT SPOON 5 GALLON - 160	
⊕	LEUCOPHYLLUM FRUTESCENS 'GREEN CLOUD' 5 GALLON - 1517	
⊙	CASSIA PHYLLODENIA DESERT CASSIA 5 GALLON - 1103	
○	ACACIA REDOLENS 'DESERT CARPET' 1m 1 GALLON - 135	
⊗	LANTANA MONTEVIDENSIS 'GOLD MOUND' & TRAILING PURPLE' 1 GALLON (50/50 MIX) - 2509	
✱	LANTANA MONTEVIDENSIS 'NEW GOLD LANTANA' 1 GALLON - 761	
▼	BOUGAINVILLEA 'BARBARA KARST' BOUGAINVILLEA 5 GALLON - 27	

T.J. McQUEEN & ASSOCIATES, INC.  
LANDSCAPE ARCHITECTURE  
URBAN DESIGN  
SITE PLANNING  
1121 East Missouri Ave., Suite 218  
Phoenix, Arizona 85014  
(602) 265-0320

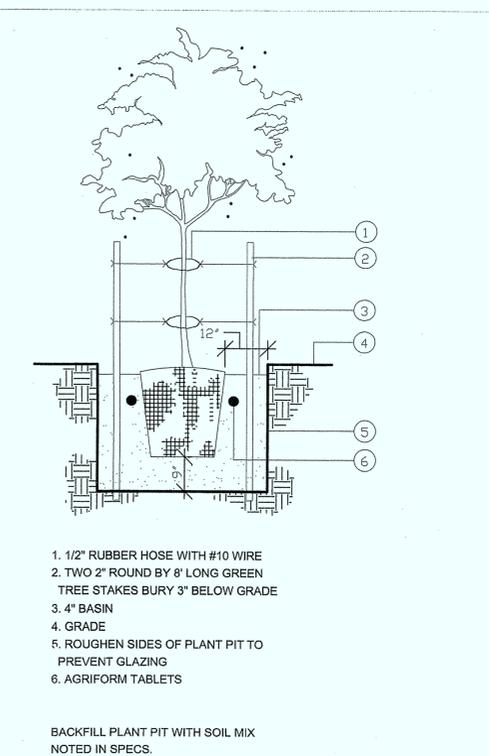


CALL TWO WORKING DAYS BEFORE YOU DIG  
(602) 265-1100  
1-800-STAKE-IT  
(OUTSIDE MARICOPA COUNTY)

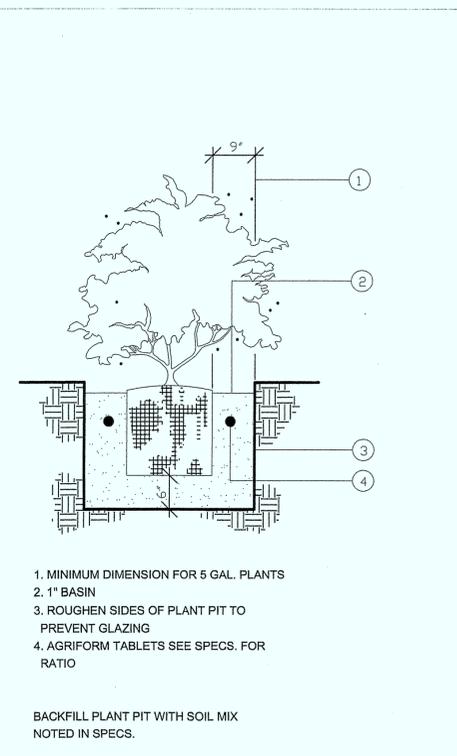
TJM & ASSOCIATES EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT & OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESSED WRITTEN PERMISSION & CONSENT OF TJM & ASSOCIATES



## TREE GUYING DETAIL



## DOUBLE STAKING DETAIL



## SHRUB PLANTING DETAIL

## LANDSCAPE LEGEND

	CERCIDIUM PRAECOX SONORAN PALO VERDE 24" BOX - 186 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	OLNEYA TESOTA IRONWOOD 24" BOX - 60 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	ACACIA STENOPHYLLA SHOESTRING ACACIA 24" BOX - 25 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	PROSOPIS CHILENSIS CHILEAN MESQUITE (THORNLESS) 24" BOX (2" CALIPER) - 265 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	ACACIA SALICINA WILLOW ACACIA 24" BOX (2" CALIPER) - 64 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	CERCIDIUM HYBRID DESERT MUSEUM PALO VERDE 36" BOX - 116 MIN 3" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	CERCIDIUM FLORIDUM BLUE PALO VERDE 24" BOX (MATCHING) - 34 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	SOPHORA SECUNDIFLORA TEXAS MOUNTAIN LAUREL 24" BOX - 39 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	QUERCUS VIRGINIANA SOUTHERN LIVE OAK 24" BOX - 85 MIN 2" CALIPER - 8' HEIGHT- 4' ABOVE GRADE
	PHOENIX DACTYLIFERA DATE PALM 20' TRUNK FT. (MATCHING, DIAMOND CUT) - 19
	3/4" MINUS JESSE RED DECOMPOSED GRANITE 2" DEPTH IN ALL LANDSCAPE AREAS

## SHEET INDEX

- L-1 OVERALL COVER SHEET
- L-2 OVERALL LANDSCAPE PLAN
- L-3 OVERALL LANDSCAPE PLAN
- L-4 ONSITE COVER SHEET
- L-5 ONSITE LANDSCAPE PLAN
- L-6 OFFSITE COVER SHEET
- L-7 OFFSITE LANDSCAPE PLAN
- L-8 OFFSITE LANDSCAPE PLAN

## LANDSCAPE AREAS

REQUIRED	PROVIDED
168,133 SQ. FT.	169,424 SQ. FT.
33,500 SQ. FT.	33,500 SQ. FT.
2,600 SQ. FT.	2,600 SQ. FT.
66,054 SQ. FT.	66,054 SQ. FT.
5 %	5 %
12,650 SQ. FT.	12,650 SQ. FT.
33 %	35 %

## LANDSCAPE PLANTINGS

REQUIRED	PROVIDED
146 TREES	146 TREES
291 SHRUBS	291 SHRUBS
2,334 SQ.FT	2,334 SQ.FT.
205 TREES	205 TREES
67 TREES	71 TREES
12 TREES	12 TREES
n/a	n/a

## TOTALS

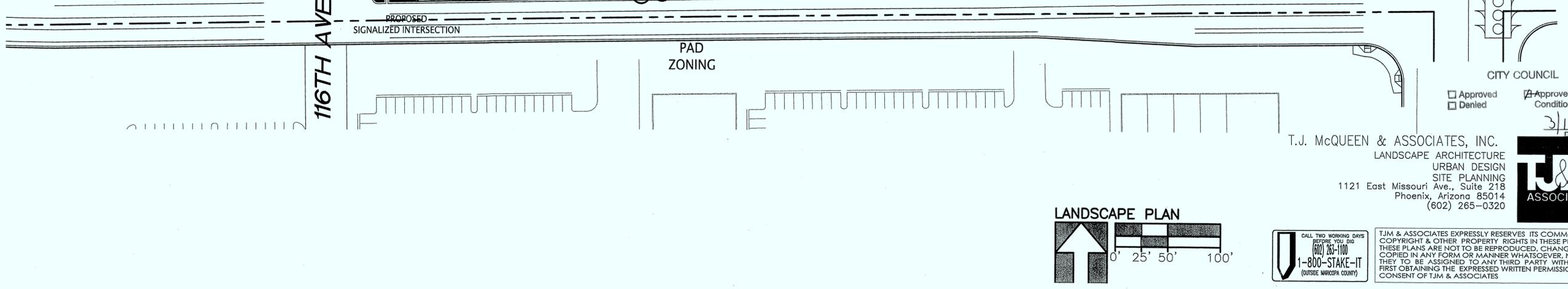
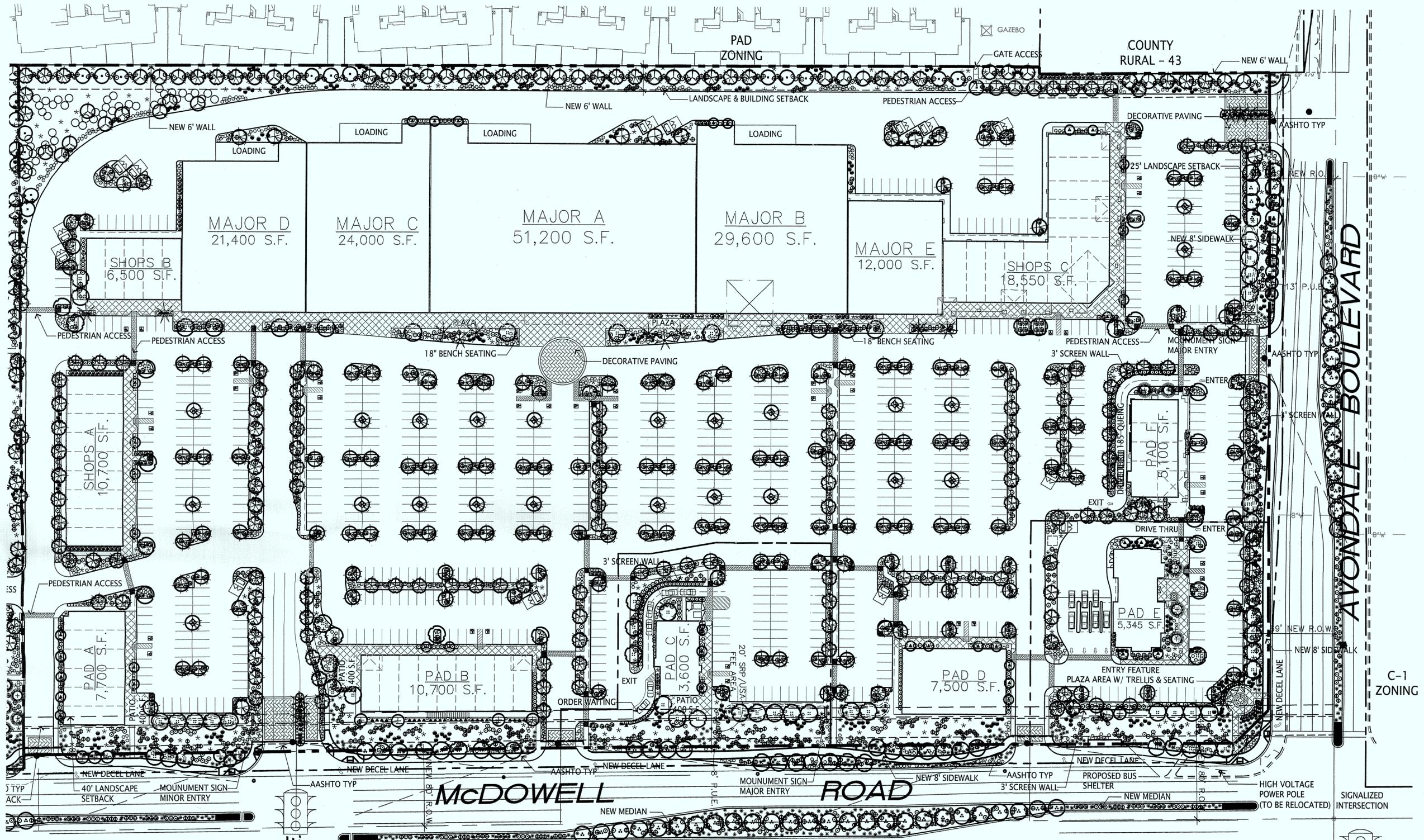
REQUIRED	PROVIDED
204,233 SQ. FT.	207,967 SQ. FT.
%	%
430 TREES	434 TREES
95 TREES	95 TREES
291 SHRUBS	291 SHRUBS
2,334 SQ. FT.	2,334 SQ. FT.

OVERALL LANDSCAPE AREA = 207,967 SF  
ONSITE LANDSCAPE AREA = 144,831 SF  
OFFSTIE LANDSCAPE AREA = 136,030 SF

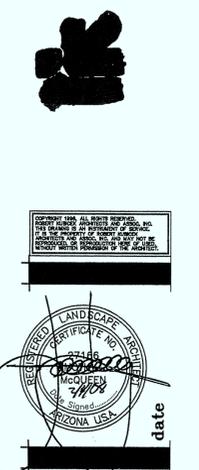
MCDOWELL 15% LS PARKING CALC  
ROW 2.203 LF x 200' buffer = 440,600 SF/15% Req LS = 66,090 SF Req  
Provided = 67,421SF of landscape within 200' of McDowell ROW

## LANDSCAPE AND IRRIGATION

- ALL LANDSCAPE AND IRRIGATION INSTALLED WITHIN THE PUBLIC RIGHT-OR-WAY OR OTHER CITY MAINTAINED AREAS SHALL BE INSTALLED PER THE APPROVED PLANS. ALL LANDSCAPING APPROVED AS A PART OF THE SITE PLAN PROCESS SHALL BE INSTALLED PER THE APPROVED PLANS. ANY DEVIATIONS TO THE APPROVED PLANS REQUIRED CITY APPROVAL.
  - PERMITS ARE REQUIRED FOR ELECTRICAL CONNECTIONS, INCLUDING ELECTRIC METER INSTALLATION, BACKFLOW PREVENTERS, AND WORK WITHIN THE CITY RIGHT - OF - WAY OR CITY DEDICATED PROPERTY. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING THESE PERMITS PRIOR TO THE COMMENCEMENT OF ANY WORK.
  - ALL LANDSCAPE PROJECTS REQUIRING CITY MAINTENANCE OR WITHIN THE CITY RIGHT - OF - WAY SHALL BE INSPECTED FOR THE FOLLOWING.
    - PLANT LOCATIONS: THESE LOCATIONS SHALL BE STAKED IN THE FIELD WITH IDENTIFICATION AS TO TREES OR SHRUBS; OR HOLES FOR THE PLANT MATERIALS MAY BE DUG WITH IDENTIFICATION OF PLANT TYPE. USE OF THIS METHOD DOES NOT RELIEVE THE CONTRACTOR OF ANY PLANT RELOCATIONS MADE BY THE CITY.
    - IRRIGATION INSTALLATION: INSPECTIONS SHALL BE MADE AT THE POINT THE IRRIGATION SYSTEM IS INSTALLED. INSPECTIONS OF THE PIPE DEPTH, AUTOMATIC VALVE INSTALLATION AND EMITTER / SPRAY INSTALLATIONS WILL BE MADE.
    - SUBSTANTIAL COMPLETION: AN INSPECTION AT COMPLETION OF THE LANDSCAPE AND IRRIGATION INSTALLATION WILL BE MADE. ANY DEFICIENCIES IN THE INSTALLATION WILL BE NOTED AND CORRECTED BY THE CONTRACTOR DURING THE MAINTENANCE PERIOD.
    - FINAL ACCEPTANCE: A FINAL INSPECTION IS REQUIRED PRIOR TO CITY ACCEPTANCE OF THE LANDSCAPE AND IRRIGATION IMPROVEMENTS. THE ABOVE INSPECTIONS REQUIRE A MINIMUM OF 48 - HOURS PRIOR NOTIFICATION TO THE CITY. CALL THE PEORIA COMMUNITY DEVELOPMENT DEPARTMENT AT (623) 773 - 7200 AND LEAVE A MESSAGE INCLUDING THE SUBDIVISION, LOCATION AND TYPE OF INSPECTION TO ARRANGE FOR THESE INSPECTIONS.
  - SEPARATE INSPECTIONS ARE REQUIRED FOR THE BACKFLOW PREVENTER AND ELECTRICAL CONNECTIONS. PLEASE CALL (623) 773 - 7220 A MINIMUM OF 24 - HOURS PRIOR TO ARRANGE FOR THESE INSPECTIONS.
  - LANDSCAPE AND IRRIGATION, WHICH IS INSTALLED ON PRIVATE PROPERTY IN THE CONJUNCTION WITH A CITY APPROVED SITE PLAN WILL BE INSPECTED BY THE COMMUNITY DEVELOPMENT DEPARTMENT FOR CONFORMANCE TO THE APPROVED SITE PLAN PRIOR TO ISSURANCE OF A CERTIFICATE OF OCCUPANCY.
  - THE LANDSCAPE AND IRRIGATION FOR THIS PROJECT WILL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION PER THE APPROVED PLANS.
  - ALL CITY MAINTAINED PROJECTS REQUIRE A 90 - DAY MAINTENANCE PERIOD TO BEGIN AT THE DATE OF SUBSTANTIAL COMPLETION AS DETERMINED BY THE CITY.
  - RIGHT - OF - WAY AND CITY MAINTAINED AREAS REQUIRE SEPARATE WATER METER CONNECTIONS. RIGHT - OF - WAY AREAS DESIGNATED FOR MAINTENANCE BY THE ADJACENT PROPERTY OWNERS FOR COMMERCIAL, INDUSTRIAL AND MULTI - FAMILY DEVELOPMENTS SHALL HAVE THE RIGHT - OF - WAY IRRIGATION ISOLATED OR SEPARATED FROM THE ON - SITE IRRIGATION SYSTEM.
  - THE CONTRACTOR SHALL BE RESPONSIBEL FOR INSTALLATION, COST AND REQUIRED PERMIT FEES FOR THE WATER METER (S) DESIGNATED TO SERVE THE IRRIGATION SYSTEM.
  - ALL PLANTINGS AT MATURITY SHALL MAINTAIN A MINIMUM 6'-0" CLEARANCE AROUND ALL FIRE HYDRANTS AND FIRE SUPPRESSION DEVICES.
  - PLANTINGS SHALL NOT INTERFERE WITH ANY TRAFFIC CONTROL SIGNS AND SHALL MAINTAIN A MAXIMUM HEIGHT OF 2'-6" WITHIN ANY SIGHT DISTANCE TRIANGLES.
  - INSTALLATION OF THE LANDSCAPE AND IRRIGATION SYSTEM INCLUDING ADDITION OF GROUND PLANT MATERIALS SHALL NOT IMPEDE THE FLOW OF DESIGNED DRAINAGE FACILITIES NOR DECREASE THE DESIGN VOLUME OF ANY DETENTION / RETENTION BASINS.
  - THE CONTRACTOR IS RESPONSIBLE FOR THE LOCATION AND PROTECTION OF ALL UNDERGROUND UTILITIES DURING THE LANDSCAPE AND IRRIGATION INSTALLATION.
  - ALL TREES SHALL MAINTAIN A MINIMUM OF 6'-0" CLEARANCE FROM ANY CITY WATER OR SEWER LINE. ALL PLANTINGS SHALL MAINTAIN A SUFFICIENT DISTANCE TO ANY SANITARY AND STORM SEWER MAINHOLES TO ALLOW ACCESS BY MAINTENANCE VEHICLES.
  - A SWALE MINIMUM OF 6" IN DEPTH SHALL BE PROVIDED IN ALL LANDSCAPE AREAS WITHIN THE CITY RIGHT - OF - WAY PER CITY DETAIL TO PROMOTE WATER HARVESTING.
  - ALL PLANTING AREAS (EXCEPT TURF AREAS) TO BE MAINTAINED BY THE CITY SHALL BE TREATED WITH A PRE - EMERGENT HERBICIDE BY A LICENSED APPLICATOR PRIOR TO AND AFTER THE PLACEMENT OF THE DECOMPOSED GRANIT, RIVER ROCK ETC.. APPLICATION DOCUMENTATION WILL BE REQUIRED PRIOR TO ACCEPTANCE OF THE LANDSCAPING BY THE CITY.
  - AS - BUILT DRAWINGS OF THE LANDSCAPE AND IRRIGATION SYSTEM ARE REQUIRED PRIOR TO ACCEPTANCE BY THE CITY AND FOR PROJECTS WITHIN THE CITY RIGHT - OF - WAY OR CITY OWNED PROPERTY. THE AS - BUILT DRAWINGS SHALL BE 4 - MIL PHOTO MYLAR SHOWING THE LOCATIONS OF ALL PLANTINGS AND THE DIMENSIONS TO FIXED POINTS OF ALL IRRIGATION EQUIPMENT, PIPING ETC.
- PRE-EMERGENT NOTE**  
DUE TO CONFLICTS BETWEEN OWNER'S AND CONTRACTOR'S WE ARE NOW REQUIRING THAT THE ENTIRE PRE-EMERGENT APPLICATION PROCESS BE VIDEO TAPED. VIDEO TAPE IS TO BE VIEWED BY THE LANDSCAPE ARCHITECT. IF VIDEO TAPPING IS NOT PERFORMED ANOTHER APPLICATION SHALL BE PROVIDED WITH VIDEO TAPPING.
- LIABILITY NOTE**  
THE CITY APPROVES THESE PLANS FOR CONCEPT ONLY AND ACCEPTS NO LIABILITY FOR ERRORS OR OMISSIONS
- GENERAL NOTES**
- TWENTY-FOUR INCH BOX TREES SHALL HAVE A MIN. TRUNK HEIGHT OF 8' WITH A MIN. 2" CALIPER MEASURED 4' ABOVE GROUND. FIFTEEN GALLON TREES SHALL HAVE A MIN. TRUNK HEIGHT OF 6' WITH A MIN 1 1/2" CALIPER MEASURED 6' ABOVE GROUND.
  - A DEVELOPMENT MAY SUBSTITUTE A 36" BOX OR LARGER TREE IN PLACE OF A 15 GALLON TREE AT A SUBSTITUTION RATE OF 1.5 TREES FOR EVERY REQUIRED (15) GALLON TREE.
  - ALL LANDSCAPED AREAS SHALL BE SUPPORTED BY AN AUTOMATIC IRRIGATION SYSTEM WHICH MAY BE SPRAY, FLOOD OR DRIP SYSTEM.
  - PLANT MATERIALS UTILIZED IN LANDSCAPED AREAS IN THE R.O.W. MUST BE INCLUDED ON THE MOST RECENT EDITION OF THE PHOENIX ACTIVE MANAGEMENT AREA LOW WATER USE / DROUGHT TOLERANT PLANT LIST.
  - THE PROPERTY OWNER AND/OR LESSEE SHALL BE RESPONSIBLE TO INSTALL/MAINTAIN ALL LANDSCAPING WITHIN THE RIGHT-OF-WAY.
  - A 3 FOOT CLEAR SPACE IS REQUIRED AROUND ALL FIRE SUPPRESSION EQUIPMENT. NO PLANTS MAY BE INSTALLED THAT WILL ENCROACH WHEN MATURE.
- LANDSCAPE WITHIN SIGHT VISIBILITY LINES**
- PLANTINGS WITHIN THE SIGHT VISIBILITY TRIANGLE LINE SHALL BE MAINTAINED SO THAT NO LIMBS HANG LOWER THAN SEVEN FEET. SHRUBS PLANTED WITHIN THE SIGHT VISIBILITY TRIANGLE LINE SHALL BE NO TALLER THAN TWO FEET AT FULL GROWTH.
- MISC NOTES**
- ALL LANDSCAPE WILL BE GUARANTEED 100% DRIP IRRIGATION
  - A PRE-EMERGENT HERBICIDE SHALL BE APPLIED TO THE GROUND PRIOR TO AND AFTER THE PLACEMENT OF NATURAL SURFACE MATERIALS IN ALL LANDSCAPE AREAS

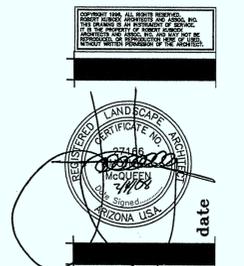


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 (602) 955-0466 Fax  
 www.rkba.com



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 NWC Avondale Blvd. and McDowell Road  
 Avondale, Arizona

sheet L-2 of job 06264  
 design drawn check T.J.M.



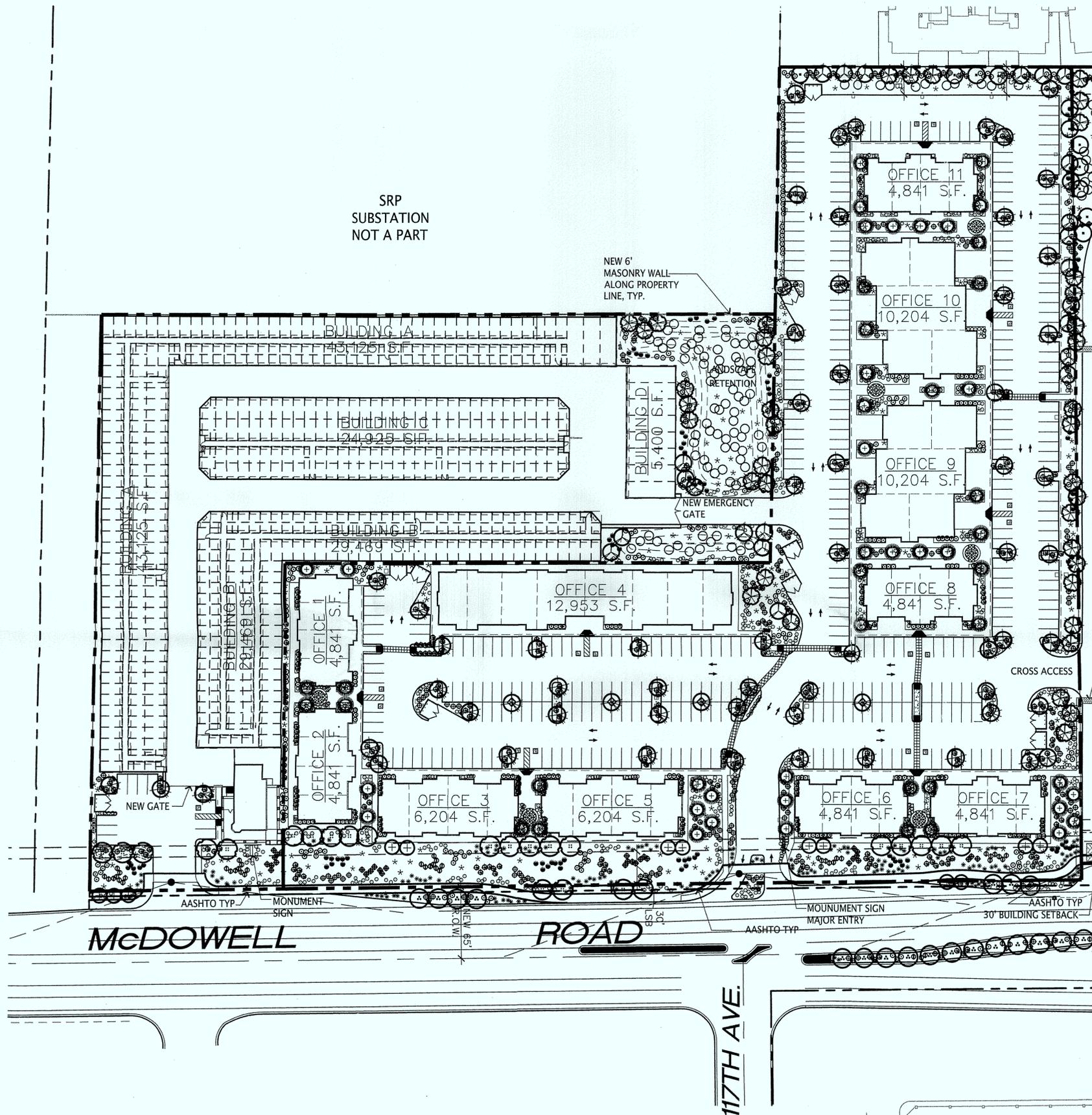
Approved  
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 Date: 3/17/08

T.J. McQUEEN & ASSOCIATES, INC.  
 LANDSCAPE ARCHITECTURE  
 URBAN DESIGN  
 SITE PLANNING  
 1121 East Missouri Ave., Suite 218  
 Phoenix, Arizona 85014  
 (602) 265-0320



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Phoenix, Az. 85016-3474  
(602) 955-9900 Phone  
(602) 955-0489 Fax  
www.rkba.com

**ROBERKUBICKI**  
Architects And Associates, Inc.

APPROVED FOR THE LANDSCAPE PLAN  
BY THE CITY OF PHOENIX  
ON BEHALF OF THE CITY COUNCIL  
DATE: 3/12/08



NEW COMMERCIAL DEVELOPMENT  
TROAST PROPERTIES  
NWC Avondale Blvd. and McDowell Road  
Avondale, Arizona

CITY COUNCIL

Approved  
 Denied

Approved with Conditions

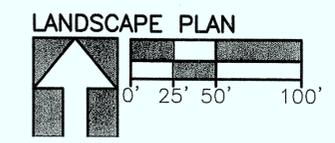
3/12/08  
Date

T.J. McQUEEN & ASSOCIATES, INC.  
LANDSCAPE ARCHITECTURE  
URBAN DESIGN  
SITE PLANNING  
1121 East Missouri Ave., Suite 218  
Phoenix, Arizona 85014  
(602) 265-0320



design  
drawn  
check TJM

sheet  
L-3  
of  
job 06264



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Major B-South Elevation

Major E-South Elevation

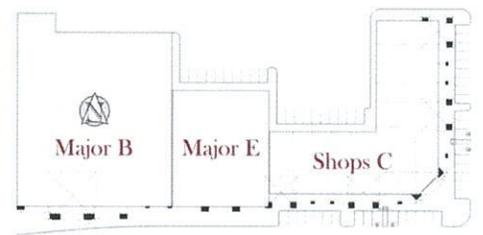
Shops C-South Elevation



Shops C-East Elevation



Shops C Tower



Shops C-North Elevation

Major E-North Elevation

Major B-North Elevation

CITY COUNCIL

Approved  
 Denied

Approved with Conditions

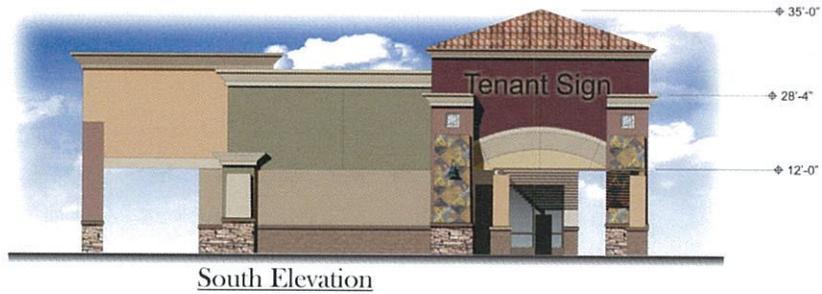
3/17/08  
Date

New Commercial Development

NWC Avondale Blvd. & McDowell Rd.  
Avondale, Arizona

Majors B, E, Shops C- EL- 1  
RKAA 06264 01-07-08





New Commercial Development

NWC Avondale Blvd. & McDowell Rd.  
Avondale, Arizona

Pad F - EL-3

RKAA 06264 04/08/08

CITY COUNCIL

Approved  
 Denied

Approved with  
Conditions

3/17/08  
Date

 ROBERT KUBICEK  
Architects And Associates, Inc.



Pad B- North Elevation



Pad B- East Elevation



Pad B- West Elevation



Pad B- South Elevation

CITY COUNCIL

Approved  
 Denied

Approved with  
Conditions

3/17/08  
Date

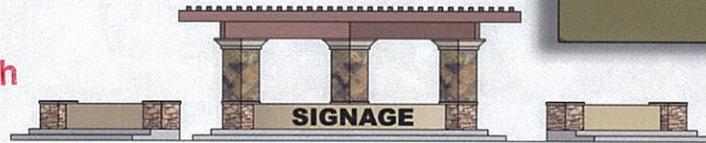
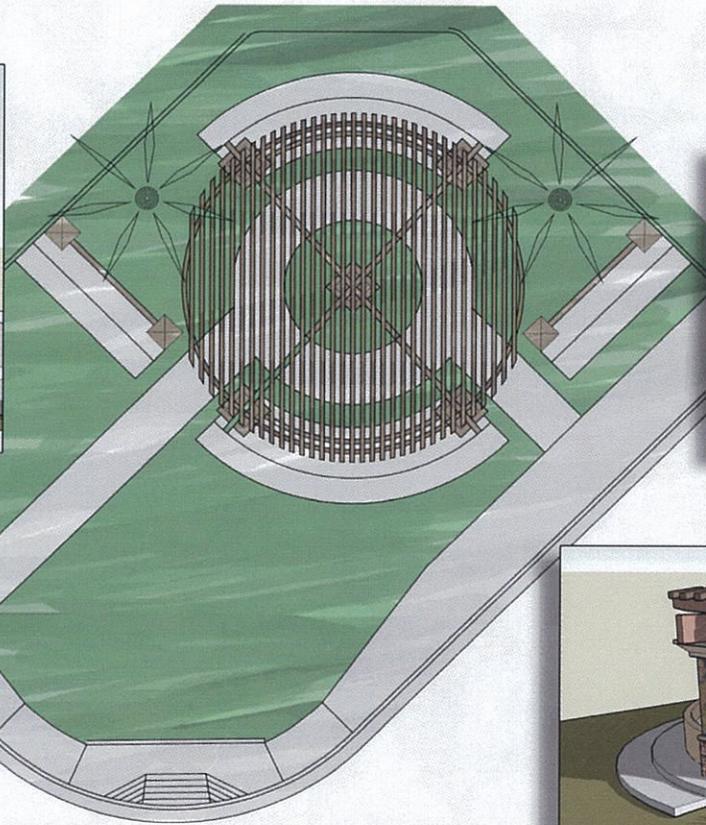
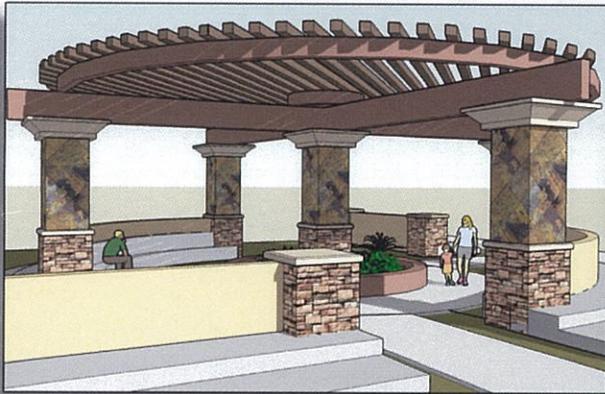
Pad B - EL-2

RKAA 06264 03/26/08

**RKAA**  
ROBERT KUBICEK  
Architects And Associates, Inc.

## New Commercial Development

NWC Avondale Blvd. & McDowell Rd.  
Avondale, Arizona



CITY COUNCIL

Approved  
 Denied

Approved with  
 Conditions

3/17/08  
 Date

**CORNER ENTRY FEATURE**

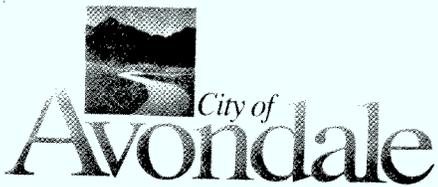


PREPARED BY  
 ROBERTA BIA  
 ARCHITECTS AND ASSOCIATES, INC.  
 DATE: 10-18-07

AVONDALE MARKETPLACE - RETAIL  
 Troast Properties  
 NWC Avondale Blvd. and McDowell Road  
 Avondale, Arizona

design: LMM  
 drawn: LMM  
 check: HU

sheet  
**EL-4**  
 of  
 job 00264



May 7, 2008

Mr. Kevin Kerpan  
Robert Kubicek Architects  
2253 East Thomas Road  
Phoenix, Arizona 85016

**RE: Avondale Marketplace (DR-07-8)  
City Council Approval**

Dear Mr. Kerpan:

On March 17, 2008 the City Council approved case DR-07-8, a request for Master Site Plan and Parcel 2 Final Site Plan approval for the Avondale Marketplace, a mixed use development at the NWC of Avondale Boulevard and McDowell Road, with the following stipulations:

- 1) The development shall conform to the project narrative, site plan, landscape plan, building elevations, preliminary grading and drainage plan, photometric plan, materials and color board, and comprehensive sign package stamped February 8, 2008, except as modified by these stipulations.
- 2) In accordance with Section 106.C.4 of the City of Avondale Zoning Ordinance, the Master Site Plan and Parcel 2 Final Site Plan shall expire within one year of approval if a building permit has not been issued.
- 3) The proposed development is to conform to the Avondale Commercial/Industrial/Multi-Family Design Manual.
- 4) Architecture, color and materials palette for future phase development shall conform to the architecture, color and materials palette of the Master Site Plan.
- 5) All signs shall be a uniform color that is consistent with the approved Master Site Plan color palette.
- 6) Right-of-way for Avondale Blvd.: The 9' roadway easement along Avondale Blvd. is to be 3' back of sidewalk only along the right-turn-lane and will end as the sidewalk angles back into the right-of-way.

- 7) Right-of-way for McDowell: Additional right-of-way for the traffic signal facilities at the median opening west of Avondale Blvd. may be required. This will be determined by the City Traffic Department when final construction plans are submitted. Details for the construction of the median will be developed during the review of final construction plans.
- 8) The catch basin for area OFF2 shall be an appropriate MAG detail for the 10' curb opening shown as being required, as the MAG 530-532 is for a maximum 8' opening.
- 9) The right-of-way is to be a minimum of 3' behind back of sidewalk for street lights and sign placement. Right turn lane into storage units will require additional right-of-way to meet this requirement. The amount of additional right-of-way will be determined at the time of Civil Improvement Plans submittal.
- 10) Prior to the issuance of a building permit for the first phase of development, the developer shall contribute the following cost contributions toward traffic signals: 50% for 116<sup>th</sup> Avenue and McDowell Road, 16% for Avondale Blvd. and Palm Lane, 18% for Avondale Blvd. and Encanto, and full costs of all modifications to existing traffic signal and associated work at northwest corner of Avondale Blvd. and McDowell Road.
- 11) Additional right-of-way on the corners at the intersection of McDowell Road and 116<sup>th</sup> Avenue is required for the new traffic signal equipment. The amount of additional right-of-way will be determined at the time of Civil Improvement Plans submittal.
- 12) During the first phase of construction, the developer shall provide a transit stop, including bus pull-out bay (can be co-located in deceleration lane if meets spacing standards) and concrete pad for westbound traffic on McDowell Road west of Avondale Blvd. The developer shall also provide a transit stop consisting of a concrete pad (no pull-out bay needed) for westbound traffic on McDowell Road west of 117<sup>th</sup> Avenue. Additional right-of-way will be required to accommodate the transit bays and pads. The amount of additional right-of-way will be determined at the time of Civil Improvement Plans submittal.
- 13) All water rights on the property shall be conveyed to the City of Avondale prior to recordation of the final plat.
- 14) No signs shall be located in a public utility easement.
- 15) The Developer will submit a revised traffic study for review and approval that evaluates the impacts of establishing a right-out only driveway at the northeast most corner of the property. The Developer will pay for the future cost of the deceleration lane at the time of approval of the off-site construction permits. When Avondale Boulevard is modified and the deceleration lane is available, the northeast exit can be modified to be a full access driveway.

- 16) Left and right turn lanes, including dual turn lanes, for all driveways and intersections shall meet the requirements of the traffic study for storage lengths, stacking, and taper lengths. Some adjustments may be required at Civil Improvements Plan submittal, such as to medians and openings.
- 17) The future pads of Parcel 2 shall be treated with a decomposed granite ground cover for dust control until development of those areas occurs.
- 18) All off-site improvements will be constructed as part of the first phase of development, including those for the residential Parcel 1 off of Palm Lane.
- 19) A signing and striping plan will be required at Civil Improvement Plans submittal.
- 20) Pedestrian access to Parcel 2 from the future residential part of the development plan will not be allowed until the residential portion is developed.
- 21) The Master Site Plan and the Final Site Plan for Parcel 2 shall be revised to describe the Parcel 4 proposed use as Office Park.

The next step is to submit construction documents to the Development Services Center. DSC is a one-stop shop and is responsible for construction plan routing. Attached is the Simultaneous Review Handout for Commercial Projects. The Development Services Center can be reached at 623-333 - 4004 should you have any questions about the plan submittal requirements. Upon submittal of your construction documents please provide the Development Services Center with a copy of this approval letter.

The Building Services Division is currently working under the following codes: 2006 IBC, IRC, IPC, IFGC, IMC, IECC, 2005 NEC, 2003 ICC/ANSI, and the 1998 ADA Accessibility Guidelines with City of Avondale Amendments. Fire Operations is currently working under 2003 IFC

It has been a pleasure working with you. Please do not hesitate to contact me should you need any further assistance. I can be reached at [jvater@avondale.org](mailto:jvater@avondale.org) or (623) 333-4014.

Sincerely,



John Vater, Planner  
Planning Division  
Building Services Department

Enclosures: Site Plan  
Elevations  
Landscape Plan  
Electrical Lighting Plan

Photometric Plan  
Sign Package  
Preliminary Utility Plan  
Simultaneous Review Handout

cc: Development Review Team  
Development Services Center

**City Council Regular Meeting – Excerpt of Meeting Minutes  
March 17, 2008**

**8) AVONDALE MARKETPLACE (DR-07-8) MASTER SITE PLAN AND  
PARCEL 2 FINAL SITE PLAN APPROVAL**

John Vater, Planner I, Development Services Department, stated this is application DR-07-8, a request for Master Site Plan approval for Avondale Marketplace and Final Site Plan approval for five sites in Parcel 2 of Avondale Marketplace. He described the 38.6 acre development as located at the northwest corner of Avondale Blvd. and McDowell Road. He described the surrounding properties as the Palm Gardens Development to the north, Donatela Phase 1 to the east, the proposed Agua Fria Marketplace to the south, and an APS substation to the west. Mr. Vater relayed that the site is designated as Commercial in the General Plan and is zoned as Planned Area Development (PAD) with Residential, Commercial, and Office Park uses. He described the surrounding zoning as Neighborhood-Commercial to the east, Agricultural to the west, and Planned Area Developments to the north and south.

Mr. Vater outlined that the Master Site Plan encompasses three separate parcels, and Parcel 2 is the retail portion of the development, consisting of 25.23 acres with approximately 214,000 square feet of tenant space proposed. Parcel 3 is a self-storage development of 4.6 acres, consisting of four buildings with approximately 103,000 square feet of storage space. Parcel 4 is an 8.77 acre office park consisting of 11 buildings with a combined 75,000 square feet of tenant space. Access to the site will be provided by two driveways from Avondale Blvd. and six driveways from McDowell Road. Three full access driveways are proposed, one at the entrance to the mini storage parcel, one at the signalized intersection of McDowell Road and 116<sup>th</sup> Avenue, and one at the northern most driveway on Avondale Blvd. Cross access is provided between the parcels, and each parcel is served by a network of internal drives. Pedestrian access will be facilitated from Avondale Blvd. and McDowell Road by tree-lined walkways, and a pedestrian entry feature is included at the intersection of Avondale Blvd. and McDowell Road. Mr. Vater explained that based on the proposed uses for all the buildings, the Master Site is required to have 1,183 parking spaces, and the applicant is proposing a total of 1,273. All parcels are sufficiently sized and shaped to allow for future development and onsite circulation.

Mr. Vater noted that in addition to the Master Site Plan, the applicant is requesting approval of the Final Site Plan for Parcel 2, the retail portion of the development. Parcel 2 is proposed to be developed in phases. The first phase consists of two major tenant spaces, B and E; Shops C; and two multi-tenant pads B and F, with PAD F having a drive-through. The rest of Parcel 2 will be developed in future phases, as well as Parcels 3 and 4, which will be

administratively approved. All off-site improvements, including roadway improvements, frontage landscaping, power pole relocation and easements will be constructed during the initial phase. The site is required to have 204,000 square feet of landscaping, and the applicant is proposing approximately 208,000 feet. The development will have a 25 foot landscape buffer along the northern property line to screen it from the future residential phase, with the landscape buffer containing mostly 24 inch box trees planted 20 feet on center. Date palms will be used in the medians of two driveways, at the pedestrian entry feature, and in front of the major tenant buildings. Mr. Vater described the architecture as contemporary-commercial, including varied roof lines, articulated facades, decorative arches, cornice columns, scored stucco, and metal awnings. The colors are earth tones on the walls and green for the metal roof features. The materials are stucco, glass, masonry, slate, stone, wood, and metal. He showed the Commission slides of the building elevations and features.

Mr. Vater told the Council that Staff finds that the application meets the required findings. The Planning Commission recommended approval on February 21, 2008 with 21 stipulations. Stipulation No. 15 was discussed in great detail and requires the applicant to install a deceleration lane at the northeast most driveway off Avondale Blvd. As the applicant does not own the parcel where the deceleration lane would come out, the Planning Commission tried to amend the stipulation to a right-out/left-in only driveway. On further review, Staff prepared a preferred and amended stipulation that establishes a right-out only driveway until such time that Avondale Blvd. is widened, and then the deceleration lane can be provided, and the driveway can be constructed as a full access driveway. Mr. Vater reported that only one letter has been received since the last Planning Commission meeting in opposition to this project, which was from the adjoining property owner concerning the right-of-way and the deceleration lane, as well as water rights.

Vice Mayor Weise stated the planned entryway is excellent. He asked to discuss changing the 24 inch box trees to include a certain caliper on the trees. He stated the variation in roof lines and stone features are great and asked if the colors could be more vibrant to match the development across the street. Vice Mayor Weise stated he is happy to have this project in Avondale.

Council Member Wolf asked if the vacant parcel north of this site is part of the overall development scheme. Mr. Vater replied that parcel is part of the PAD for this project and is the residential portion which will be phased in after the retail section. Council Member Wolf expressed concern that the 30 foot building heights will be very imposing upon the residential district and he would advocate a separation between Palm Gardens and this development. Council Member Wolf echoed Vice Mayor Weise, in that he is not happy with the five shades of beige and would like to see more color. While he would approve the architectural layouts this evening, he thinks there should be more discussion and perhaps a return to Council on the colors.

Regarding Stipulation No. 15, Council Member Wolf asked about the driveway for this development. Mr. Vater replied that a revised traffic study was submitted by the applicant subsequent to the Planning Commission meeting; however, it reviewed a right-out/left-in/right-in, which was not reflective of the Planning Commission's desire. The applicant then submitted another revised study reviewing a right-out/left-in only per the Planning Commission's recommendation. Subsequent to that, through Staff review, Staff felt that the right-out option was the best and safest option at this point. He stated the applicant has not provided the revised traffic study, but that will be required as a condition of approval. Council Member Wolf asked if the applicant was concerned that a right-out only driveway would have a negative effect on traffic flow to the development,. He stated he did not understand why a reconstruction of the entrance was necessary if a right-out only is the only option needed. Mr. Vater replied that the intent was to provide a full access driveway on Avondale Blvd. At some point Avondale Blvd. will be widened, and the traffic study originally warranted a full left-in/full right-out. Additionally, across the street at the proposed Children's Hospital, that will be the location for their full turning movement driveway.

Council Member Wolf inquired if there would be a traffic light. Charlie McClendon, City Manager, replied that would remain to be seen as the traffic volumes there change.

Council Member Wolf stated this appears based on warrant studies and traffic that are not accounted for yet. He thinks a right-out/left-in is all the turning movements necessary, and he does not see why a full turning movement is required at that location. Dave Fitzhugh, Assistant City Manager, replied that as the area develops, the City is anticipating a use base coming from the north and the model was set up to distribute the traffic to all the planned access points. The traffic study analyzed the entire Site Plan inclusive of the office, the Commercial and the Storage, and looking at how those trips were distributed amongst all the driveways, they were adequate with the full access on Avondale Blvd. and the limited access just south.

Council Member Wolf asked if the revised traffic study was to have something on the books with a PE seal that states in the first phase a right-out only will work and would that be on file. Mr. Fitzhugh stated that is correct, that documentation will need to be on file, as there are about 170 northbound to westbound left turns at that intersection predicted during the peak hour and they need to see how those trips will be redistributed to the other access points. Council Member Wolf asked if the City was taking responsibility for reconstruction of the entrance at the time Avondale Blvd. is expanded, and would the applicant be providing some of the money now to cover that cost. Mr. Fitzhugh stated that is correct and it is a stipulation to collect those funds for future expenditure.

Council Member McDonald asked if when Avondale Blvd. is built out, will it be two lanes in each direction and a median to the point where the entrance is. He expressed concern that it appears it will be a blind turn out. Mr. Vater replied that the road will be designed to have both southbound movements and a widening deceleration lane starting at some point north, with sight visibility and the ability for people southbound to see that that driveway is coming up. He informed the Council that the revised traffic study provided by the applicant showed the right turn movement was safe in this existing situation.

Kelly La Rosa, Traffic Engineering Department, added that the traffic study does not specifically address sight visibility unless the client requests that for landscaping, and that is taken care of at the Civil Site Plan stage. She reported that Staff would look at the design of the driveway in terms of sight visibility to the extent that they can, but because of the issue with private property, there are legal restrictions as far as going onto private property and clearing trees. Ms. La Rosa assured the Council that Staff would consider everything to make sure the driveway is designed as safe as possible.

Mayor Lopez Rogers invited further questions and comments from Council and heard none.

Peter Valenzuela, 2425 E. Camelback Rd., Ste. 950, Phoenix, AZ, representing Troast Properties, stated his client was very happy to be in the City of Avondale. He stated they are willing to discuss the color schemes and 24 inch box trees. He reported that his client has been in the Site Approval process for about 18 months and has gone through three Site Plan submittals, and with the last Site Plan there were a number of comments concerning the traffic. He stated regarding Stipulation No. 15, his client has bent over backwards and would like to move forward without having to reconfigure the Site Plan itself. Mr. Valenzuela reported his client is fine with the right-out only driveway and agrees that when Avondale Blvd. is widened and the deceleration lane comes in, they will need full access movement at the northeast exit.

Council Member Wolf asked how could the Staff best address the color issue. Andrew McGuire, City Attorney, replied if the applicant is willing to state tonight that they are comfortable with adding more color as part of the approval without adding another stipulation, that would be a strong statement.

Mr. Valenzuela interjected that they could stipulate the color scheme when they go through design review and plat.

Council Member Wolf asked if Staff is okay with that, which Staff affirmed.

Vice Mayor Weise suggested that the applicant be provided with the color palette for Agua Fria Marketplace.

Council Member Wolf moved to approve Avondale Marketplace (DR-07-8) Master Site Plan and Parcel 2 Final Site Plan with the 21 stipulations, to include the amended Stipulation No. 15 as presented by Staff this evening. Vice Mayor Weise seconded the motion.

The stipulations are as follows:

- 1) The development shall conform to the project narrative, site plan, landscape plan, building elevations, preliminary grading and drainage plan, photometric plan, materials and color board, and comprehensive sign package stamped February 8, 2008, except as modified by these stipulations.
- 2) In accordance with Section 106.C.4 of the City of Avondale Zoning Ordinance, the Master Site Plan and Parcel 2 Final Site Plan shall expire within one year of approval if a building permit has not been issued.
- 3) The proposed development is to conform to the Avondale Commercial/Industrial/Multi-Family Design Manual.
- 4) Architecture, color and materials palette for future phase development shall conform to the architecture, color and materials palette of the Master Site Plan.
- 5) All signs shall be a uniform color that is consistent with the approved Master Site Plan color palette.
- 6) Right-of-way for Avondale Blvd.: The 9' roadway easement along Avondale Blvd. is to be 3' back of sidewalk only along the right-turn-lane and will end as the sidewalk angles back into the right-of-way.
- 7) Right-of-way for McDowell: Additional right-of-way for the traffic signal facilities at the median opening west of Avondale Blvd. may be required. This will be determined by the City Traffic Department when final construction plans are submitted. Details for the construction of the median will be developed during the review of final construction plans.
- 8) The catch basin for area OFF2 shall be an appropriate MAG detail for the 10' curb opening shown as being required, as the MAG 530-532 is for a maximum 8' opening.
- 9) The right-of-way is to be a minimum of 3' behind back of sidewalk for street lights and sign placement. Right turn lane into storage units will require additional right-of-way to meet this requirement. The amount of additional right-of-way will be determined at the time of Civil Improvement Plans submittal.

10) Prior to the issuance of a building permit for the first phase of development, the developer shall contribute the following cost contributions toward traffic signals: 50% for 116<sup>th</sup> Avenue and McDowell Road, 16% for Avondale Blvd. and Palm Lane, 18% for Avondale Blvd. and Encanto, and full costs of all modifications to existing traffic signal and associated work at northwest corner of Avondale Blvd. and McDowell Road.

11) Additional right-of-way on the corners at the intersection of McDowell Road and 116<sup>th</sup> Avenue is required for the new traffic signal equipment. The amount of additional right-of-way will be determined at the time of Civil Improvement Plans submittal.

12) During the first phase of construction, the developer shall provide a transit stop, including bus pull-out bay (can be co-located in deceleration lane if meets spacing standards) and concrete pad for westbound traffic on McDowell Road west of Avondale Blvd. The developer shall also provide a transit stop consisting of a concrete pad (no pull-out bay needed) for westbound traffic on McDowell Road west of 117<sup>th</sup> Avenue. Additional right-of-way will be required to accommodate the transit bays and pads. The amount of additional right-of-way will be determined at the time of Civil Improvement Plans submittal.

13) All water rights on the property shall be conveyed to the City of Avondale prior to recordation of the final plat.

14) No signs shall be located in a public utility easement.

15) The Developer will submit a revised traffic study for review and approval that evaluates the impacts of establishing a right-out only driveway at the northeast most corner of the property. The Developer will pay for the future cost of the deceleration lane at the time of approval of the off-site construction permits. When Avondale Boulevard is modified and the deceleration lane is available, the northeast exit can be modified to be a full access driveway.

16) Left and right turn lanes, including dual turn lanes, for all driveways and intersections shall meet the requirements of the traffic study for storage lengths, stacking, and taper lengths. Some adjustments may be required at Civil Improvements Plan submittal, such as to medians and openings.

17) The future pads of Parcel 2 shall be treated with a decomposed granite ground cover for dust control until development of those areas occurs.

18) All off-site improvements will be constructed as part of the first phase of development, including those for the residential Parcel 1 off of Palm Lane.

19) A signing and striping plan will be required at Civil Improvement Plans submittal.

20) Pedestrian access to Parcel 2 from the future residential part of the development plan will not be allowed until the residential portion is developed.

21) The Master Site Plan and the Final Site Plan for Parcel 2 shall be revised to describe the Parcel 4 proposed use as Office Park.

Mayor Lopez Rogers invited further discussion, and hearing none, called for a vote.

ROLL CALL VOTE AS FOLLOWS:

Council Member Scott	Aye
Council Member Buster	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor Weise	Aye
Council Member Wolf	Aye
Council Member Karlin	Aye
Council Member McDonald	Aye

Motion carried unanimously.

*SUMMARY OF RELATED FACTS  
APPLICATION DR-09-2*

<i>THE PROPERTY</i>	
PARCEL SIZE	38.6 Acres
LOCATION	Northwest corner of Avondale Boulevard and McDowell Road.
PHYSICAL CHARACTERISTICS	The site is irregular in shape and generally slopes to the southwest.
EXISTING LAND USE	Agriculture
EXISTING ZONING	AG (Agricultural)
ZONING HISTORY	March 6, 2006
DEVELOPMENT AGREEMENT	None

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	PAD (Palm Garden) – single family residential
EAST	R-6 (Donatela I) and C-1 - Grading
SOUTH	PAD (Crystal Gardens Commercial) – Agricultural
WEST	Rural 43 (Maricopa County) - Vacant

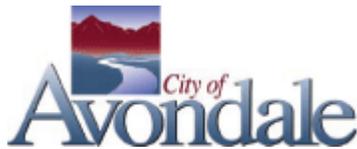
<i>GENERAL PLAN</i>	
Amended from Commercial to Mixed-Use on October 3, 2005	

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Pendergast Elementary and Tolleson Union High School
ELEMENTARY SCHOOL	Canyon Breeze Elementary School
HIGH SCHOOL	Westview High School

<i>STREETS</i>	
<b>McDowell Road</b>	
Classification	Arterial
Existing half street ROW	55-65 feet
Standard half street ROW	65 feet
Existing half street improvements	Two traffic lanes with center turn lane at the Avondale Blvd. Intersection.
Standard half street improvements	Three traffic lanes with center turn lane and median. Paving, curb, gutter, detached sidewalk, landscaping and street lights. Deceleration lanes as deemed necessary by City Engineering at time of final improvement plan approval.

<b>Avondale Boulevard</b>	
Classification	Arterial
Existing half street ROW	55-65 feet
Standard half street ROW	55-65 feet
Existing half street improvements	One traffic lane with center turn lane at McDowell Road intersection.
Standard half street improvements	Three traffic lanes with center turn lane and median. Paving, curb, gutter, detached sidewalk, landscaping and street lights.

<i>UTILITIES</i>
<p>A 21” sanitary sewer runs along the entire McDowell Road frontage. A 10” and 12” sanitary sewer runs along Palm Lane.</p> <p>A 12” waterline runs along McDowell Road. A 16” waterline runs along Avondale Boulevard. An 8” water line runs along Palm Lane.</p>



# CITY COUNCIL REPORT

**SUBJECT:**

Acceptance of Grant Funding From The Office Of  
Community Oriented Policing

**MEETING DATE:**

August 10, 2009

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

**PURPOSE:**

Staff is providing an update to the Council after being selected as a Federal Grant recipient from the Community Oriented Policing Services (COPS) Hiring Recovery Program. This grant provides \$1,147,190.00 to fund five additional police officer positions for the City of Avondale.

**BACKGROUND:**

On April 6, 2009, staff submitted a COPS grant request for six (6) additional police officer positions. We were notified on July 28, 2009, that we were approved for five (5) police officer positions. This grant provides funding for five entry level police officers for three years and if accepted, Avondale is obligated to continue funding these positions during the fourth year. Should the Council accept this grant funding, these five positions will be assigned to the uniformed Patrol Division. By adding five additional police officers a new Community Action Team (CAT) will be created.

The CAT will consist of six police officers supervised by one sergeant that is assigned to the Patrol Division. Their primary function will be to supplement the Beat Officers working community policing projects to solve on-going public safety concerns. Examples of the services to be provided by the CAT include the following:

- **All CAT members will be cross trained to provide bike patrol.** When operationally necessary all six CAT members can be assigned to saturate a neighborhood, business complex, industrial park, or special event for crime suppression and criminal apprehension activities.
- **Conduct criminal surveillance.** CAT members will be trained to conduct under cover surveillance targeting high crime areas in order to arrest criminals based on data provided by the Crime Analysis Unit.
- **Identify foreclosed properties and suppress criminal activity.** Foreclosed properties are often the target for a variety of criminal activity including human smuggling, drug activity, juvenile drug and alcohol use, graffiti, and vandalism. CAT members will respond to complaints of criminal activity at rental properties to apprehend criminals and work with property owners to prevent on-going criminal activity.
- **Assist with drug investigations.** Members of the CAT will be trained to assist narcotics detectives with complaints of drug activity to include assisting with the service of search warrants and facilitating basic drug investigations.
- **Conduct warrant details.** There are over 2,000 outstanding misdemeanor arrest warrants for subjects who committed crime in Avondale. CAT members will spend time serving these outstanding warrants and holding these subjects accountable.
- **Reduce gang activity.** Working the State Gang Task Force, CAT members will provide operational support in the on-going identification and apprehension of gang members involved

in criminal activity.

- **Foster community partnerships.** Officers assigned to the CAT will attend community meetings to share information and foster partnerships with residents and business owners.

**DISCUSSION:**

In order to maintain basic service delivery the CAT will not be operational until May, 2010. It will take approximately ten months to conduct a selection process for five new police officers, have them successfully complete the police academy, participate in their field training program, then begin functioning as solo patrol officers. During this ten month period CAT members will be identified and receive basic training in order to become operational when the new grant funded officers are operational. This is necessary so as to maintain service delivery in the patrol division.

**BUDGETARY IMPACT:**

The current fiscal year budget includes appropriation for this grant in fund 224 - COPS Hiring Fund. The City Council also authorized six (6) full time equivalents (FTE) in anticipation of award. It is the intent to eliminate the one (1) FTE not funded through the grant.

The estimated cost of the CAT program is displayed in the table below along with the estimated funding plan.

	Year 1	Year 2	Year 3	Year 4	Totals
<b>Estimated Costs</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	-
Five (5) Officers	370,885	382,255	394,050	405,872	1,553,062
Officer (1)/Sergeant (1)	170,847	173,121	175,480	177,844	697,292
Operating Costs	119,306	119,306	119,306	119,306	477,224
Start Up Costs	224,650	0	0	0	224,650
<b>Total Costs</b>	<b>885,688</b>	<b>674,682</b>	<b>688,836</b>	<b>703,022</b>	<b>2,952,228</b>
<b>Funding Sources</b>					
COPS Hiring Grant	370,885	382,225	394,050	0	1,147,190
Existing Budget	170,847	173,121	175,480	177,844	697,292
10 Month Savings	46,763	0	0	0	46,763
Replacement Fund Credit	40,830	0	0	0	40,830
Available RICO Funds	40,000	0	0	0	40,000
Position Savings	216,460	129,110	129,110	129,110	603,790
<b>Total Funding</b>	<b>885,785</b>	<b>684,486</b>	<b>698,640</b>	<b>306,954</b>	<b>2,575,866</b>
<b>Surplus/(Deficit)</b>	<b>97</b>	<b>9,804</b>	<b>9,804</b>	<b>(396,068)</b>	<b>(376,362)</b>

As shown, the City must set aside funding in the fourth year of the grant period to ensure compliance with the Federal guidelines. The first year start up costs along with the ongoing costs of this program during the grant period will be funded through salary savings from various positions. In order to fully fund this program within the Police Department budget in this fiscal year, a transfer of appropriation is required from the Community Development group to the Public Safety group in the amount of \$144,750.

**RECOMMENDATION:**

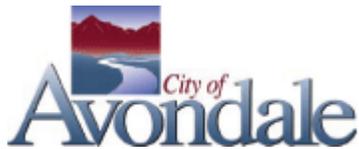
Staff is recommending Council approve the receipt of COPS grant funding totaling \$1,147,190.00 in order to fund five new police officer positions supplementing the uniformed Patrol Division allowing the creation of the CAT and authorize the transfer of appropriations from 101-5900 & 101-5410 to

101-6174 in the amount of \$144,750. If Council chooses to accept the grant a resolution will be placed on a September Council agenda.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Ordinance 1384-809 - Chapter 15 - Miscellaneous Provisions and Offenses, Relating to Noise

**MEETING DATE:**

August 10, 2009

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

**PURPOSE:**

Staff is requesting that the City Council adopt an ordinance amending Article I, Section 15-11 of the Avondale City Code relating to the keeping of any animal, bird, or fowl which, by causing frequent or long continued noise, shall disturb the comfort of any person in the vicinity, incorporating additional language that was approved during the July 20, 2009 City Council Meeting.

Originally, the additional language was approved by Council to be placed into Chapter 3, Article II, Section 3-24 of the Avondale City Code ("It is unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night.") Section 3-24 is cross referenced to Chapter 15, Article I, Section 15-11 of the City Code. After legal counsel researched both sections of the City Code, their recommendation, and the Police Department concurs, is to place the additional language pertaining to petitions in Section 15-11. Placing the new language in Section 3-24 would require a complete re-write of the entire Article.

**BACKGROUND:**

On July 20, 2009, Staff brought forth to City Council a request to revise the current Avondale City Code pertaining to the harboring or keeping of any animal that disturbs the peace. The recommended changes would provide for additional requirements placed upon the complainants who contact the Police Department regarding animals that are disturbing their peace before an actual citation is issued or long form complaint is filed with the City Prosecutor.

**DISCUSSION:**

On July 20, 2009, after Council received the presentation and reviewed the research, direction was given to Staff to incorporate Option #2 into the revised Noise Ordinance (15-11 rather than 3-24 per legal counsel) pertaining to Animals. Option #2 is as follows: Enhance the current City Ordinance (15-11 rather than 3-24 per legal counsel) by adding the following language that applies to the circumstances necessary to issue a citation:

- Must be at least two complainants who are not related and live in separate residences willing to sign a petition against the owner of the loud animal.
- All complainants are required to testify in court; otherwise, the case is dismissed.
- Anonymous complaints will not be accepted.

This additional information was then incorporated into the revised Ordinance amending Section 15-11 of the City Code (see attached).

**BUDGETARY IMPACT:**

None

**RECOMMENDATION:**

Staff recommends that the City Council adopt the attached revised Ordinance pertaining to loud animals. We will update our Police Website and any related Animal Control brochures depicting the amended ordinance. Additionally, we will train our Police Officers, Communications Personnel and Animal Control Officers on the amended ordinance as well as developing an on-line petition for the complainants. Finally, we will advise the City Judge and City prosecutor of the amended City Ordinance.

**ATTACHMENTS:**

Click to download

 [Ordinance 1384-809](#)

**ORDINANCE NO. 1384-809**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CODE, MISCELLANEOUS PROVISIONS AND OFFENSES, RELATING TO NOISE.

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

SECTION 1. That the Avondale City Code, Chapter 15, Miscellaneous Provisions and Offenses, Article I, Section 15-11, Noise, is amended by adding the following new subsection (e):

(e) AN ACTION FOR THE VIOLATION OF THIS SECTION 15-11 WITH RESPECT TO THE ACTS SET FORTH IN SUBSECTION (C)(4) SHALL NOT BE COMMENCED UNLESS AT LEAST TWO UNRELATED COMPLAINANTS FROM SEPARATE RESIDENCES AND WITH INDEPENDENT KNOWLEDGE OF THE ACTS HAVE SIGNED A COMPLAINT. NO PERSON SHALL BE FOUND GUILTY OF A MISDEMEANOR FOR VIOLATING THE PROVISIONS OF THIS SECTION 15-11 WITH RESPECT TO THE ACTS SET FORTH IN SUBSECTION (C)(4) UNLESS SUCH COMPLAINANTS HAVE MADE THEMSELVES AVAILABLE TO TESTIFY IN ANY COURT PROCEEDINGS RELATED TO THE COMPLAINT.

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

SECTION 3. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

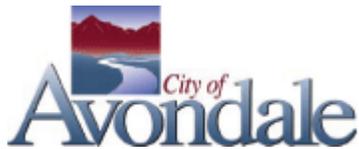
\_\_\_\_\_  
Marie Lopez Rogers, Mayor

ATTEST:

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

APPROVED:

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



# DEVELOPMENT SERVICES

**SUBJECT:**

Resolution 2851-809 - City Center Design Guidelines

**MEETING DATE:**

August 10, 2009

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

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**REQUEST:** Staff is requesting that the City Council adopt a resolution approving the City Center Design Guidelines for the City Center Specific Plan. The Council will take appropriate action.

**LOCATION:** Citywide

**APPLICANT:** Staff-initiated Request

**BACKGROUND:**

On August 11, 2008, the Avondale City Council adopted the Avondale City Center Specific Plan (CCSP). The purpose of this plan was to distinguish an area of Avondale as a premier destination characterized by a pedestrian-oriented, high-quality, festive and friendly environment. More recently, City Council adopted the City Center Zoning District (CCD) on May 4, 2009, which is in effect today. Staff now is in the process of rezoning a majority of the properties within the District north of Van Buren Street. The CCSP vision is becoming a reality. In order to support these efforts and implement the CCSP's ultimate goals, staff has prepared the City Center District Design Guidelines (CCDG) which establish standards for architecture, urban design, and overall development expectations (Exhibit A).

**SUMMARY OF REQUEST:**

The CCSP establishes a comprehensive vision for how the City Center area should develop; the CCD provides standards for land use and district-wide development. The CCDG complements and supports the previous documents by providing standards for building design both general and specific per building types, site planning and outdoor spaces, and services and equipment including signage. The first objective of the City Center Design Guidelines is to describe the design expectation as well as provide specific building and site development standards with written requirements and visual aids for clarity. The guidelines will not only set the standards and expectation for quality, but also provide a range of project components that need to be considered for each development. The basis for the new design guidelines originates directly from the CCSP document. In essence it refines that language and makes it regulatory by nature. Visual aids include photographs of representative developments which provide an illustrative example of street character; building height, massing, and layout; open space; and parking. Imagery often answers the question when written words cannot.

The second objective is to provide a development tool that documents and clarifies for both City staff and applicants those development expectations for overall design fluidity and consistency throughout. The standards are clearly defined and presented, and it eliminates the question of what is expected of the project with regards to aesthetics. It eliminates the ambiguity of whether or not a standard applies. It is in the interest of the City to ensure quality design for each development

proposal and to provide for continued design excellence as the City Center evolves. In order to achieve the desired vision for a pedestrian-oriented environment in the City Center, development projects should be built in accordance with these design guidelines. In conclusion, the key to having design guidelines for the City Center is to consistently realize the goals and objectives of the City Center Specific Plan and City Center District.

#### **PARTICIPATION:**

A City Council Work Session was held on June 8, 2009, with a presentation of the initial design guidelines draft. The document was refined, and a draft was made available on the City's web page for public review. The development community was notified that this was made available. On July 16, 2009, it was presented to the Planning Commission for informational purposes and feedback. Staff received comments from the Planning Commission and have integrated those into the document. No action was required.

#### **PLANNING COMMISSION ACTION:**

No action was required.

#### **ANALYSIS:**

The design guidelines as drafted serve the following purposes for development in the City Center area:

1. To provide standards both City staff and applicants can use to gage the quality and aesthetic nature of each development proposal consistently, fairly, and deliberately in order to meet the City Center Plan's expectations and vision. These standards are described both by words and by images so the City's end goal is clear.
2. To ensure an overall quality of design is executed and maintained in this area.
3. To inspire future development in this area to reach for a higher level of development integrity and appreciate the fundamental design values of expression, integration, and innovation.

#### **FINDINGS:**

The proposed City Center Design Guidelines meet the City Center Specific Area Plan's main goal of implementing a vibrant, pedestrian-oriented, attractive, and enduring City Center District.

#### **RECOMMENDATION:**

The City Council should adopt by resolution the City Center Design Guidelines.

#### **PROPOSED MOTION:**

I move that the Mayor and City Council accept the findings and adopt by resolution the City Center Design Guidelines dated August 10, 2009.

#### **ATTACHMENTS:**

Click to download

[Exhibit B: PC Meeting Minutes 7-16-09](#)

[Resolution 2851-809](#)

#### **PROJECT MANAGER:**

Stacey Bridge-Denzak

## EXHIBIT B

*Excerpt from the Minutes of the regular Planning Commission meeting held July 16, 2009 at 6:30 p.m. in the Council Chambers.*

**PLANNING COMMISSION  
REGULAR MEETING**

**CITY COUNCIL CHAMBERS  
11465 W. CIVIC CENTER DR.  
AVONDALE, AZ 85323**

**Thursday, July 16, 2009  
6:30 P.M.**

The following members and representatives were present:

**COMMISSIONERS PRESENT**

David Iwanski, Chairman  
Michael Demlong, Vice Chair  
Al Lageschulte, Commissioner  
David Scanlon, Commissioner  
Angela Cotera, Commissioner  
Lisa Amos, Commissioner

**COMMISSIONER ABSENT**

Linda Webster, Commissioner

**CITY STAFF PRESENT**

Tracy Stevens, Planning Manager, Development Services Department  
Chris Schmaltz, City Attorney  
Ken Galica, Planner II, Development Services Department  
Scott Wilken, Senior Planner, Development Services Department  
Stacey Bridge-Denzak, Planner I, Development Services Department

**APPLICATION:**                    City Center Design Guidelines

**APPLICANT:**                    Staff-initiated

## Planning Commission Regular Meeting Minutes

July 16, 2009

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**REQUEST:** Presentation of City Center Design Guidelines for informational purposes and feedback. No action was required. Staff Contact: Stacey Bridge-Denzak.

### City Center Design Guidelines

This is a request before the Planning Commission to discuss and solicit input on the proposed City Center Design Guidelines that will guide and influence the design for future development within the City Center Area. Staff Contact: Stacey Bridge-Denzak.

Stacey Bridge-Denzak, Planner I, Development Services Department, stated she would present the City Center Zoning District design guidelines draft. These guidelines will ensure the quality that the City Center will promote. Staff studied similar representative developments as examples. The design guidelines are broken out in three main parts: The Introduction which includes the resolution and design principles; Architecture; and Site Design. The design principles are named "Fundamental Principles" and the intent is for these principles to guide consistency throughout each development. Projects must consider: 1) Expression: architecture should be contemporary and timeless style. 2) Integration: Project should transition well and have the same feel. 3) Innovation: progress and innovation are important in design. Various types of architecture are shown in the guidelines, as well as site planning and signage. The guidelines address building character, windows, and fenestration, as well as building materials and colors. Staff did not prescribe a specific style or theme, but did show representative samples in the guidelines in order to set a design expectation. Specific building types are shown as guidelines, to include pedestrian-oriented retail and mixed use, Class A office buildings, and residential to include apartments, condominiums and townhouses. Large floor and big box retail are allowed, as well as parking structures, which should be implemented in an urban manner. Staff looks to encourage sensitivity and creative designs for courtyards and open space. Shade and defensibility are important in these spaces. Staff has taken into account infrastructure, such as utility cabinets and mechanical equipment. Staff looks for parking in terms of structures, and prefers smaller yet more parking lots throughout the City Center rather than the typically large expansive lots. The intersections will be important in terms of safety and aesthetics. Landscaping, particularly in terms of shade, is outlined in the guidelines. Signage is addressed in terms of the aesthetic nature, but references the signage ordinance for specific criteria such as size and location.

Staff would like to receive the Planning Commission's comments by Tuesday, July 28, 2009. Staff will then incorporate them into the guidelines, and then take the guidelines to City Council on August 3, 2009 for adoption.

Chairperson Iwanski invited questions.

## Planning Commission Regular Meeting Minutes

July 16, 2009

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Commissioner Scanlon stated the document is referred to as guidelines, which he considers aspirational, yet it is also referred to as a Design Manual, which he considers prescriptive. He asked in what manner the guideline would be implemented. Ms. Bridge-Denzak stated that Staff would like to strongly encourage development to happen in a fairly prescribed manner with flexibility. While Staff is striving to develop an urban form, some prescriptions are necessary.

Commissioner Cotera stated she would like to see captions under the pictures as to which community the developments are in. She notes the word “modern” is used, which to her says dated in 30 years. She does not think modern architecture wears well and would like to see more timeless architecture. She suggested the guidelines recommend water misters to make the City Center more pedestrian friendly for a greater portion of the year.

Chairperson Iwanski stated that the Commissioners submitting their comments and questions could take a lot of time. He asked if Staff could solicit input through e-mail and then broadcast the e-mails so he can read his fellow Commissioners’ observations. Attorney Chris Schmaltz informed the Commissioners that they cannot and should not have a dialogue via e-mail even on a non-action item. He suggested it would be okay if the Commissioners typed their comments and directed them to Staff, and then have the comments shared between the Commissioners. He cautioned the Commissioners not to voice agreement with another Commissioner’s comment because that could be considered a non-agendized meeting via e-mail. He would recommend against using e-mail to solicit comments and questions. Tonight is the best time to have the discussion. Directing individual comments to Staff before the deadline would be the most efficient way, but the open meeting law could create a problem.

Chairperson Iwanski asked if he could submit his comments by the end of July 28, 2009 to Stacey Bridge-Denzak via e-mail. Attorney Schmaltz stated that Chairperson Iwanski could submit his comments via e-mail to Ms. Bridge-Denzak. He would recommend that each Commissioner submit their comments individually and not copy their e-mails to others. Staff can then provide a report to the Commissioners summarizing the other Commissioner’s comments and recommendations.

Vice Chair Demlong asked if he could legally hand Ms. Bridge-Denzak his notes tonight. Attorney Schmaltz stated handing notes to Staff tonight is permissible.

Commissioner Cotera stated she was going on vacation and would give her comments tonight. She did not see encouragement in the guidelines for underground parking.

Chairperson Iwanski noted he did not see anything on below-grade destinations, which he finds really cool. He will submit his other comments by July 28, 2009.

## Planning Commission Regular Meeting Minutes

July 16, 2009

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Commissioner Scanlon stated the Commission should recognize Avondale is not Scottsdale. He would suggest that Staff be very careful in the purpose statement of the design guidelines to make it clear that these are simply illustrative guidelines. Right now the guidelines represent a standard of quality. He will provide further comments by July 28, 2009. Ms. Bridge-Denzak stated the guidelines represent imagery which plants the seed. Staff is trying to get developers to think more seriously and provide a different kind of quality than the City has seen in the past. Commissioner Scanlon stated he would submit language that reflects what he is thinking to Staff.

Vice Chair Demlong stated the guidelines are to ensure consistency and quality throughout the City Center. He would like to see the guidelines tightened up and made more quantitative. He stated he does not believe the design guideline draft is ready to go to the City Council yet. He would like to see the photos not only labeled, but also referenced in the text. He would like to see a quick reference table. He asked who the intended customer of the document is. Ms. Bridge-Denzak stated the developer is the customer. Vice Chair Demlong stated the guidelines should be as customer friendly as possible. He believes the materials in the guidelines should be reorganized and consolidated for easier reading. He would like the guidelines to be more quantitative in places. He asked if a special plant palette would be included for use in the City Center. Ms. Bridge-Denzak replied in the original policy, street trees were designated for specific roadways, and that was the extent of the planting palette. The guidelines do address the size of plants.

Commissioner Cotera stated the City Center Plan had great detail. She asked if the design guidelines reference the City Center Plan. She noted the maps and landscape plan are not in the design guidelines and asked if the guidelines were complementing the City Center Plan or replacing the City Center Plan. Ms. Bridge-Denzak replied the design guidelines do not replace the policy document. Staff has established zoning districts. The design guidelines came out of the policy document and this is an opportunity to make it better. She is not sure that the design guidelines require the maps.

Commissioner Cotera stated she would like to see a table of contents cross referencing the documents that developers should consult.

Commissioner Scanlon suggested a cross reference page in each specific section. He is concerned the design guidelines will exclude other types of designs and be off-putting to developers. A picture does tend to exclude other types of architecture, and if developers have something else in mind, they might pass over Avondale.

Commissioner Cotera stated the City is not looking to be a replica of Scottsdale or any other city, but is looking for something that has not been done anywhere else. Her dream is that in 10 years, Staff in another city will have a picture in their manual of Avondale's downtown. She suggested the introduction promote creating not only a sense of place,

## **Planning Commission Regular Meeting Minutes**

**July 16, 2009**

**Page 5 of 5**

but a unique sense of place. The City is not looking to replicate, but to innovate. Ms. Bridge-Denzak stated she agrees with Commissioner Cotera. Commissioner Cotera continued that it is a struggle to arrive at the end product the City is looking for. The City is looking for a style, image and quality that define the city as Avondale. The City is after something new.

Commissioner Cotera stated in 30 years people will either ask “what were they thinking?” or “wow, they were amazing forward thinkers!”

Vice Chair Demlong stated he thinks the design guidelines draft is a great start and Staff has done a wonderful job. He remembers the public stated they like the pedestrian area and the design of the plan. 165 notifications were sent out to property owners and no one responded. One person came to a public meeting and said they did not like the plan. He wondered if the public has given up or have they bought into the plan. He noted for the record that the public has told the Planning Commission the City Center Plan is what they want to see on Avondale Blvd. They want a pedestrian-friendly, unique design to reinforce that Avondale is a city of character. The City should have high aspirations. Ms. Bridge-Denzak stated that the purpose for her being present tonight is to receive the Planning Commission’s input, and all information is appreciated.

Chairperson Iwanski thanked Ms. Bridge-Denzak for her presentation.

## **RESOLUTION NO. 2851-809**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ADOPTING THE 2009 CITY OF AVONDALE DESIGN MANUAL FOR THE CITY CENTER DISTRICT.

**WHEREAS**, the City of Avondale Zoning Ordinance establishes the requirement for site plan review and imposes design and development standards to address a wide range of design, siting and environmental issues related to development within the City Center Zoning District; and

**WHEREAS**, in order to supplement and reinforce the site plan review standards and establish clear and comprehensive design recommendations for all development within the City Center Zoning District, the City of Avondale Development Services Department prepared the Design Manual for the City Center District (the “Design Manual”); and

**WHEREAS**, the Design Manual seeks to clarify and reinforce the objectives of the Council of the City of Avondale (the “City Council”) and is intended to give clear design direction to applicants and provide City staff, the Planning and Zoning Commission (the “Commission”) and the City Council with the tools needed to properly evaluate development proposals within the context of City policies and standards; and

**WHEREAS**, the Design Manual emphasizes essential principles of development, particularly site planning, compatibility with neighboring development, pedestrian accessibility, landscaping, safety, sustainability, general building form, building massing and building scale; and

**WHEREAS**, the Commission held a work session to discuss the proposed Design Manual on July 16, 2009, after which the Commission recommended approval; and

**WHEREAS**, the City Council reviewed the Design Manual during a work session on June 8, 2009, and during its regular meeting on August 10, 2009; and

**WHEREAS**, the City Council acknowledges that, subsequent to adoption of the Design Manual, it may be necessary for the Development Services Director to make certain typographical or technical corrections, including improvements to the photographs and graphics, to the Design Manual that do not result in a substantive change in the Manual.

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

SECTION 1. That the Design Manual for the City Center District is hereby adopted in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Resolution. The Development Services Director is hereby authorized to make certain typographical or technical corrections to the Design Manual, including improvements to the photographs and graphics, which do not result in substantive changes in the Design Manual.

**PASSED AND ADOPTED** by the Council of the City of Avondale, August 10, 2009.

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Marie Lopez Rogers, Mayor

ATTEST:

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Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 2851-809

[Design Manual for the City Center District]

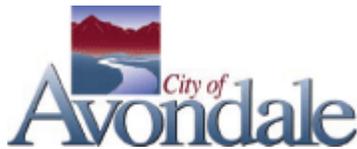
See following pages.

# FINAL DRAFT

## Design Manual for the City Center District

<b>I. Introduction</b> Purpose	<b>p. 2</b>	
<b>II. Fundamental Principles</b> Expression Integration Innovation	<b>p. 2</b>	
<b>III. Architecture</b> Building Orientation Building Massing and Articulation Building Style Building Entrances Building Windows and Fenestration Building Materials	<b>p. 4</b>	
<b>IV. Specific Building Types</b> Pedestrian-Oriented Retail and Mixed Use Office Buildings: Low-Rise and Mid-Rise	<b>p. 14</b>	
		<b>V. Site Planning</b> Courtyards and Open Space Public Spaces: Shade, Thermal Comfort and Heat Gain Defensible Space Utility cabinets and equipment Parking Entrances Parking Lots Intersection Enhancements Landscaping
		<b>p. 21</b>
		<b>VI. Signage</b>
		<b>p. 26</b>

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



# CITY COUNCIL REPORT

**SUBJECT:**  
Avondale Sports Center Architectural Concepts

**MEETING DATE:**  
August 10, 2009

**TO:** Mayor and Council  
**FROM:** David Fitzhugh, Assistant City Manager (623) 333-1014  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff will present two (2) architectural design concepts to the City Council for discussion, comment and direction. No action is required.

**BACKGROUND:**

The schedule for the American Sports Center facility provided three (3) weeks to develop 30% plans including facility programming, site layout and architectural concepts. While this is an aggressive schedule, it is necessary in order to present architectural concepts to Council in August and meet our construction start date of January 2010. Because of this, renderings and the accompanying power point presentation will not be available until the Council meeting.

Over the past year John Ruggieri, in collaboration with senior management and Development Services, prepared development strategies for the City Center Phase I project. Efforts focused specifically on the ASC facility site including retail and residential components. These concepts served as the basis for development of the current planning effort.

Key considerations carried through Architectural concept development are:

- ASC facility access control
- Functional relationships between ASC and retail space
- Market acceptance of retail/mixed use architecture
- Comparable large format architecture and market perspective
- Target market - who/what market do we attract to this venue.
- Pedestrian experience - shade structures, trees, outside seating opportunities
- Architectural sensitivity to the community
- Strong elements at key corners and entrance to ASC
- Main Street concept: what makes it work/not work
- Setting the standard for quality architecture for subsequent development phases
- Environment - orientation to sun
- Visual interest
- Visibility to I-10
- City Center Design Guidelines
- Property limitations
- Parking/accessibility
- Budget

The ASC facility will be lined with retail on the west and residential on the east. While sports facility will be ultimately "buried" in the center of the block, it will be a standalone building until such time as the retail and residential components are constructed. The ASC facility will have some minor

architectural treatment and landscaping to soften the building in the interim.

The architectural design contract anticipated development of two (2) concepts primarily focused on the retail phase as the element most visible at build out of the site. The two concepts evolved as 1) contemporary and 2) traditional. The retail design will be completed to 30% and possibly to construction documents if budget allows. This will be determined through infrastructure/sports facility design development and cost modeling.

Contemporary: This concept draws from the thought that City Center Phase I will attract a younger/active market. This style is anticipated to eventually compete with other regional projects and other places of attraction. Southwest regional and desert indigenous materials are utilized including glass, metal or equivalent, and bold colors. The vertical element for the entrance to the sports facility is representative of a slatted wood cotton bin commonly used during the pioneer and early farming period in the Southwest Valley. This element is carried through the façade and the prominent corners on 114th Avenue (Main Street) and Corporate Drive and possibly City Center Way. The central vertical element serves as a cooling tower over the entrance plaza, dropping cool air into the area while blocking much of the mid-day and afternoon sun. The element is intended to be visible from a distance and back lit to provide a night time iconic feature.

Traditional: This concept utilizes elements, materials and design motifs, commonly found in projects throughout the region. It utilizes porticos and rusticated awnings to enhance the pedestrian experience and visual interest to the building façade. Materials are a combination of scored EIFS, stone facing, rusticated metal and desert tones. The center element again finds its roots in the cotton bin but is reduced in over all massing to three towers. The towers will function as cooling towers drawing cooler air into the public plaza space, back-lit and visible from a distance.

Comments provided by Council will be incorporated into the final development of the conceptual architecture. The concept will be utilized as the basis for the final design of the retail phase at such time as it becomes financially viable. Should the budget allow final design of all or a portion of the retail space, staff will return to Council with more detailed architectural renderings.

**BUDGETARY IMPACT:**

Budget impact is determined through the design design process and cost modeling.

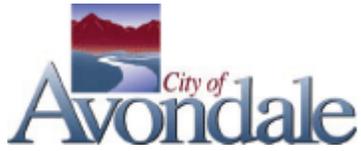
**RECOMMENDATION:**

This item is for information and discussion purposes only. No action is required.

**ATTACHMENTS:**

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No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**  
EXECUTIVE SESSION

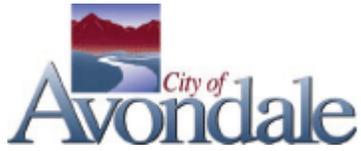
**MEETING DATE:**  
August 10, 2009

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

**ATTACHMENTS:**

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