

CITY COUNCIL AGENDA

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

WORK SESSION
December 13, 2010
6:30 PM

CALL TO ORDER BY MAYOR ROGERS

1 ROLL CALL BY THE CITY CLERK

2 2011 STATE AND FEDERAL LEGISLATIVE AGENDA

City Council will receive information and review the proposed 2011 City of Avondale federal and state legislative agenda. For information, discussion and direction.

3 ADJOURNMENT

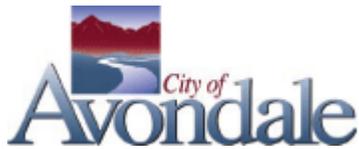
Respectfully submitted,

A handwritten signature in cursive script that reads "Carmen Martinez".

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.

Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oído, o con necesidad de impresión grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos días hábiles antes de la junta del Concejo.



CITY COUNCIL REPORT

SUBJECT:
2011 State and Federal Legislative Agenda

MEETING DATE:
December 13, 2010

TO: Mayor and Council
FROM: Shirley Gunther, Intergovernmental Affairs Manager (623) 333-1612
THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council review and provide guidance to the Intergovernmental Affairs Manager on the proposed 2011 state and federal legislative agenda. The agenda will define the City's state and federal legislative priorities and guide the City's advocacy activities in 2011. This report presents federal and state legislative priorities identified by the Council and staff.

BACKGROUND:

This report describes the City's proposed state legislative agenda for the First Regular Session of the 50th Arizona State Legislature and the Federal legislative agenda for the First Session of 112th United States Congress. The Arizona State Legislature will commence on Monday, January 10, 2011. Congress will begin January 3, 2011.

Legislation enacted at both the federal and state level can have significant effects on the ability of municipal government to serve its citizens. Therefore, it is important to identify the City of Avondale's Legislative priorities regarding potential or pending legislative actions. Prior to each legislative session, the Intergovernmental Affairs Manager seeks Council adoption of the City's federal and state legislative agenda. The approved agenda will define the City's legislative priorities and guide the City's advocacy activities. The Intergovernmental Affairs Manager will appear before the Avondale City Council on a regular basis throughout the session to provide updates and seek additional direction.

DISCUSSION:

Guiding Principles

In order to prioritize and guide staff's advocacy efforts, staff recommends that the Council endorse the following two key guiding principles as the highest priorities:

1. **Maintain and Enhance Fiscal Sustainability** -The City's budget includes revenues from a number of state sources, most importantly "shared revenues" from state income, sales and vehicle license taxes. Shared revenues make up thirty-eight percent of the City's General Fund, helping to pay for police, fire, streets, parks, and other critical City services. Staff recommends that the City oppose any reduction or negative revisions to the shared revenue components. As the state works to balance their deficit through budget cuts or tax reductions, attempts may be made to shift costs to cities in the way of new unfunded mandates. Staff recommends approval to oppose any unfunded mandates or reductions in shared revenues.
2. **Protect Local Authority** - Like other municipalities, Avondale has unique needs and characteristics and those needs are best met by policies set by its local governing body. Statewide preemptive efforts to remove the ability to set policy at the local level should be opposed. Staff recommends supporting efforts to ensure continuing local decision making authority and to prohibit preemption.

AVONDALE'S LEGISLATIVE PRIORITIES

In addition to the guiding principles described above, staff recommends the review and consideration of additional issues to include in its agenda for 2011. These issues have been identified to respond to the specific needs of the community.

Motion Picture Tax Credit - In 2005, the legislature authorized the film and motion picture production tax incentives as a means to promote production of commercial motion pictures in the state. The law includes a sunset provision eliminating the tax incentives December 31, 2010. During the interim, Avondale staff has been working with the bill Sponsor and film stakeholders to improve the current tax incentive in an effort to create new economic opportunities for the state and local economies.

Avondale has an opportunity to be home to Arizona's first film studio wherein major motion pictures, video game production, television series, music videos and commercials will be made. Staff requests authorization to continue to seek approval of a motion picture tax incentive - a tool for Arizona businesses to locate here and create a diversified employment base.

Transit

UZA Extension - Federal law allows urbanized area formula grants to be spent on operating expenses only in urbanized areas with less than 200,000 population, but Section 3009(c)(2) of SAFETEA-LU provided for a transition period for urbanized areas that cross the 200,000 threshold. Staff recommends seeking federal approval of a provision in the new reauthorization bill extending funding for Avondale's Urbanized Arizona for a minimum of 2 years to fill the gap caused by the downturn and losses in Proposition 400 funding.

Federal Transit Reauthorization - The Avondale City Center Park and Ride Transit Facility includes a three-story parking structure and will provide 650 parking spaces with operational space on the main level. The Avondale City Center Park and Ride Transit Facility will provide connectivity to the expanded light rail approximately one mile east of Avondale Boulevard. The facility will serve as a Regional Facility intended to serve west valley bus and rail commuters because of its location at the intersection of Interstate - 10 and Avondale Boulevard, a center point of the Phoenix metropolitan area. The facility requires approximately \$14 million in local or other capital funds. Staff requests that the City seek federal funds through the federal Reauthorization process.

Protection of Luke Air Force Base Mission - Established in 1941, Luke Air Force Base and the Barry Goldwater Range has evolved in the decades since to a major economic force in the West Valley region. Avondale is partnering with West Valley cities and County to protect and enhance Luke Air Force Base (AFB) and maintain significant installations. Staff recommends continuing its support of the West Valley Coalition and the mission of Luke AFB.

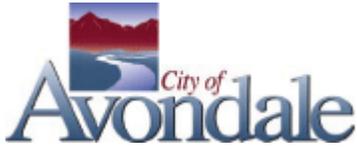
RECOMMENDATION:

Staff requests that the Mayor and Council review staff recommendations and provide input and guidance on the 2011 Legislative agenda.

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL AGENDA

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

REGULAR MEETING
December 13, 2010
7:00 PM

CALL TO ORDER BY MAYOR ROGERS
PLEDGE OF ALLEGIANCE
MOMENT OF REFLECTION

1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2 UNSCHEDULED PUBLIC APPEARANCES

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

3 CONSENT AGENDA

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

a. APPROVAL OF MINUTES

1. Work Session of December 6, 2010
2. Regular Meeting of December 6, 2010

b. FIRST AMENDMENT TO FINANCIAL ASSISTANCE AGREEMENT - CARE1ST HEALTH PLAN ARIZONA, INC.

City Council will consider a request to approve the first amendment to the Financial Assistance Agreement with Care1st Health Plan Arizona, Inc. for its funding of the Care1st Avondale Resource and Housing Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

c. RESOLUTION 2942-1210 - ADOPTION OF COUNCIL GOALS FOR FY 2011-2012

City Council will consider a resolution establishing Council goals for fiscal year 2011-2012. The Council will take appropriate action.

d. RESOLUTION 2944-1210 – INTERGOVERNMENTAL AGREEMENT WITH ADOT FOR THE UNDERDECK LIGHTING AT THE I-10 OVERPASS AT DYSART ROAD

City Council will consider a resolution authorizing an Intergovernmental Agreement with the Arizona Department of Transportation for the underdeck lighting at the I-10 overpass at Dysart Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. RESOLUTION 2941-1210 - INTERGOVERNMENTAL AGREEMENT TO PROVIDE DETENTION SERVICES TO THE CITY OF TOLLESON

City Council will consider a resolution approving an Intergovernmental Agreement with the City of Tolleson to provide detention services in exchange for funding one full-time Detention Officer and pay a monthly stipend to the Avondale City Court for services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. RESOLUTION 2946-1210 - INTERGOVERNMENTAL AGREEMENT WITH CITY OF PHOENIX FOR THE PURPOSE OF JOINING COPLINK

City Council will consider a resolution authorizing an Intergovernmental Agreement with the City of Phoenix for the purpose of joining the COPLINK program to enhance the effectiveness of law enforcement by increasing information sharing related to crime and criminal activities and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. RESOLUTION 2945-1210 - INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY RELATING TO THE URBAN AREA SECURITY INITIATIVE GRANT PROGRAM

City Council will consider a resolution approving an Intergovernmental Agreement with Maricopa County for the purpose of accepting grant funding from Arizona Department of Homeland Security in the amount of \$12,543 to purchase COPLINK equipment and services related to law enforcement information sharing and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

h. ORDINANCE 1435-1210 - ACCEPTING DEDICATION OF REAL PROPERTY FOR USE AS PUBLIC RIGHT-OF-WAY

City Council will consider an ordinance accepting the conveyance of certain real property as right-of-way along the west side of 107th Avenue from Van Buren Street to a point approximately one-half mile south and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

i. ORDINANCE 1433-1210 – ACCEPTING THE DEDICATION OF REAL PROPERTY FOR USE AS PUBLIC RIGHT-OF-WAY FOR THE HILL DRIVE IMPROVEMENT PROJECT

City Council will consider an ordinance accepting the dedication of real property for use as public right-of-way for the Hill Drive Improvement Project and authorize the Mayor or City Manager and City Clerk to execute the appropriate documentation. The Council will take appropriate action.

4 JOINT FACILITIES USE AGREEMENT - ESTRELLA MOUNTAIN COMMUNITY COLLEGE FOR PROGRAMMING AT ASC

City Council will consider a request to approve a Joint Facilities Use Agreement with Estrella Mountain Community College to provide joint programming at the American Sports Center for leisure, sports, and academic purposes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

5 PUBLIC HEARING, RESOLUTION 2943-1210 AND ORDINANCE 1434-1210 – ZONING ORDINANCE TEXT AMENDMENT TO SECTION 5, SPECIAL DISTRICTS

City Council will hold a public hearing and consider a resolution declaring as a public record a document entitled “City of Avondale Special Districts Regulations, Amended and Restated December 13, 2010”, and an ordinance adopting the same. The Council will take appropriate action.

6 ADJOURNMENT

Respectfully submitted,

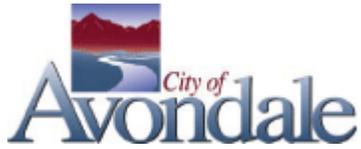


Carmen Martinez

City Clerk

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CITY COUNCIL REPORT

SUBJECT:
APPROVAL OF MINUTES

MEETING DATE:
December 13, 2010

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

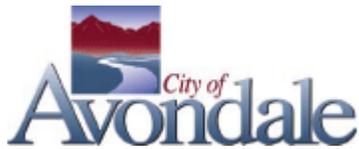
PURPOSE:

1. Work Session of December 6, 2010
2. Regular Meeting of December 6, 2010

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:

First Amendment to Financial Assistance Agreement - Care1st Health Plan Arizona, Inc.

MEETING DATE:

December 13, 2010

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve the first amendment to the Financial Assistance Agreement with Care1st Health Plan Arizona for its funding of the Care1st Avondale Resource and Housing Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

In 2008 Care1st Health Plan Arizona approached the City with the offer to fund a resource center in Avondale. With relatively minor renovations the former Old Town library building was converted into a resource center. This center provides convenient, comprehensive human and housing services to the community by providing space for non-profit organizations to operate. The building annex functions as a community meeting room which is used for meetings and events by agencies providing services in the center and City staff.

With funding provided by Care1st, Avondale staff will continue to identify needed human and housing services and recruit agencies to provide these services. The resource center has complemented the revitalization efforts in the Old Town area and has attracted other funding such as First Things First.

DISCUSSION:

The resource center is managed by staff from the Neighborhood and Family Services Department and has been in operation since 2008. The Resource Center Coordinator is a City employee and is supervised by the City's Social Services manager. This position is responsible for the day to day operation of the center. In addition to providing funding for this position, Care1st funds operating costs that include janitorial services and supplies, facility and grounds maintenance, office supplies, postage/printing, risk management costs, repair and maintenance of equipment, computer replacement charges, and utilities.

The following is the division of responsibilities for the center described in the agreement that would be renewed with Care1st.

The City of Avondale will provide:

Use of the Old Town Library building on Western Avenue;

Use of the furniture currently in the building;

Recruitment of human service and housing service providers;

Management of the resource center facility and staff;

Day to day oversight of Care1st support staff assigned to the resource center;

Fiscal oversight of the resource center.

Care1st will directly provide:

Operating costs for the period of January 2011 through December 2011;
Two support staff to serve in a reception/clerical capacity.

Joint City of Avondale and Care1st Responsibilities:

Create awareness of the services provided at the resource center to residents in the Southwest Valley;
Provide accurate, timely, and comprehensive evaluation data.

At the end of the agreement period, Care1st may choose to withdraw from the venture and take any equipment/furniture that they have directly funded. The City may also choose to withdraw from the venture, or the agreement may be extended.

BUDGETARY IMPACT:

No General Purpose Funds are required. Care1st will provide \$61,234.00 for operating costs during calendar year 2011.

RECOMMENDATION:

Staff recommends that the City Council approve the first amendment to the Financial Assistance Agreement with Care1st Health Plan Arizona for its funding of the Care1st Avondale Resource and Housing Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

 [Agreement](#)

FIRST AMENDMENT
TO
FINANCIAL ASSISTANCE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CARE 1ST HEALTH PLAN ARIZONA, INC.

THIS FIRST AMENDMENT TO FINANCIAL ASSISTANCE AGREEMENT (this "First Amendment") is made as of December 13, 2010, between the City of Avondale, an Arizona municipal corporation (the "City") and Care 1st Health Plan Arizona, Inc., an Arizona corporation (the "Provider"). The City and Provider are also referred to herein individually as a "Party" or collectively as the "Parties".

RECITALS

A. The City and Provider entered into a Financial Assistance Agreement dated November 3, 2008 (the "Agreement") to establish the Resource Center at the Facility to provide the Services to residents of the southwestern valley region. Capitalized terms herein shall have the same meaning as set forth in the Agreement unless otherwise defined herein.

B. The City has determined that additional financial assistance is necessary to continue the Services, operate the Resource Center, and improve and maintain the Facility for an additional year (the "Continued Services").

C. The City and the Provider desire to enter into this First Amendment to renew the Agreement for an additional year and to provide for additional funding for the Continued Services.

AGREEMENT

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

1. Term of Agreement. The term of the Agreement is hereby extended from January 1, 2011 through December 31, 2011 (the "Renewal Term"). The Parties may renew this First Amendment and the Agreement for successive additional time periods at any time prior to the expiration of the Renewal Term by written amendment.

2. Compensation. The Provider shall provide additional funding to the City in the amount of \$61,234.00 to enable the City to provide the Continued Services (the "Additional Funding"). Provider shall pay one half of the Additional Funding to the City on January 1, 2011. Provider shall pay the remaining half of the Additional Funding to the City on June 1, 2011.

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

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

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

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

“City”

CITY OF AVONDALE, an Arizona
municipal corporation

Charles P. McClendon, City Manager

ATTEST:

Carmen Martinez, City Clerk

“Provider”

CARE 1ST HEALTH PLAN ARIZONA,
INC., an Arizona corporation

By: _____

Name: _____

Title: _____

(ACKNOWLEDGEMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2010,
by _____ as _____ of CARE 1ST
HEALTH PLAN ARIZONA, INC., an Arizona corporation, on behalf of such corporation.

Notary Public in and for the State of Arizona

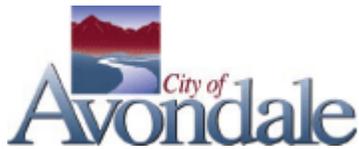
My Commission Expires:

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2010,
by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona
municipal corporation, on behalf of the City of Avondale.

Notary Public in and for the State of Arizona

My Commission Expires:



CITY COUNCIL REPORT

SUBJECT:

Resolution 2942-1210 - Adoption of Council Goals
for FY 2011-2012

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director (623) 333-1611

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution establishing Council goals for fiscal year 2011-2012.

BACKGROUND:

The Avondale City Council held its goal setting retreat on Monday, November 8, 2010 at Avondale City Hall. The retreat was attended by the Mayor and City Council members, the City Manager, staff from the City Manager's Office and Department Directors.

The purpose of the retreat was to review the City's current financial condition and formulate Council's operational goals for the upcoming 2011-2012 fiscal year. City Manager Charles McClendon presented a review of department accomplishments to date on the goals adopted a year ago, followed by Finance Director Kevin Artz's presentation of the current financial picture and a forecast for next year. The Council then discussed its priority goals for the upcoming year with the recognition that the next fiscal year will see limited funding for major projects or initiatives not already planned for in the budget or CIP.

DISCUSSION:

The primary purpose in establishing these goals was to give staff direction in preparing the budget and departmental work plans for the next fiscal year. As such, it is anticipated that the final budget presented to Council for fiscal year 2011-2012 will allocate resources necessary to accomplish these goals. The Mayor and City Council developed the following goals for the 2011-2012 fiscal year:

Goal: Community & Economic Development

Strive to make Avondale an attractive investment opportunity for retail, commercial, office and light industrial development and ensure that all development in the community meets quality standards.

- Develop a plan for attracting a wide range of quality jobs to Avondale
- Aggressively recruit businesses and employers
- Build on legislative jobs priorities
- Advocate at the State Legislature for stronger, more effective economic development tools
- Establish an Ad Hoc Committee comprised of City representatives and representatives from the business and education communities to attract technology-based businesses to Avondale and explore ways to reduce costs through shared IT resources

Goal: Community Involvement

Encourage effective coordination and involvement with community groups and other levels of government; promote community involvement among residents.

- Encourage effective coordination and involvement with community groups and other levels of government
- Promote continued community involvement by residents
- Continue self-sustaining/low-cost community and special events

Goal: Financial Stability

Ensure long-term financial stability of the City. Maintain the fund balance, contingency reserves, and service levels to ensure efficient operations.

- Ensure that the public is informed of Avondale's financial position and financial outlook
- Take a strong position on protecting State Shared Revenues (SSR) and local control
- Ensure that new and current state legislators are well-informed regarding the importance of SSRs to the cities' ability to provide service to their constituents
- The Mayor and Councilmembers, in coordination with the city's Legislative Liaison, will take a more active role in communicating with state legislators regarding the city's fiscally prudent actions, and the impact of any state actions to local government.

Goal: Quality of Life

Provide quality of life options and opportunities in the community.

- Continue to market our quality of life
- Seek ways to partner with schools on quality of life events and programs

Goal: Public Safety

Improve public safety in the community.

- Implement the Community Action Team (CAT) at full capacity
- Develop a plan and funding mechanism for public safety equipment replacement
- Continue crime reduction efforts
- Promote positive news coverage as it relates to crime-based stories

Goal: Environmental Leadership

Meet, and wherever possible, exceed regulations pertaining to water conservation, air-quality and storm water management.

- Continue progressive and proactive efforts with regard to environmental issues
- Continue to work with the ADEQ and EPA to aggressively pursue action by Crane Co. to address the PGA North Superfund site issue

Goal: Staff Retention

Encourage recruitment and retention of quality and diverse staff and improve administrative capacity.

- Hold employee salaries at the same level until the economic outlook is considerably improved
- Employees will have to bear any increases in health benefits costs

Goal: Transportation Management

Optimize multi-modal transportation and traffic flow in the community.

- Represent Avondale's interests at MAG, RPTA, ADOT, and the federal level
- Promote West Valley cohesion on transportation issues

- Actively engage in seeking funding for Avondale and West Valley transportation projects at the regional, state and federal levels
- Improve access to information regarding road construction/traffic delays on the city's website

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution establishing Council goals for fiscal year 2011-2012.

ATTACHMENTS:

Click to download

 [Resolution 2942-1210](#)

RESOLUTION NO. 2942-1210

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ESTABLISHING PRIORITY GOALS FOR FISCAL YEAR 2011-2012.

WHEREAS, on November 8, 2010, the Council of the City of Avondale (the “City Council”) held a goal setting retreat (the “Retreat”) with the City of Avondale staff; and

WHEREAS, the City Council established priority goals for fiscal year 2011-2012 at the Retreat.

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

SECTION 1. The City Council’s priority goals are hereby adopted for fiscal year 2011-2012 in the form attached hereto as Exhibit A and incorporated herein by reference.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

**EXHIBIT A
TO
RESOLUTION NO. 2942-1210**

[Council Goals]

See following pages.

CITY COUNCIL GOALS FOR FISCAL YEAR 2011-2012

Goal: Community & Economic Development

Strive to make Avondale an attractive investment opportunity for retail, commercial, office and light industrial development and ensure that all development in the community meets quality standards.

- Develop a plan for attracting a wide range of quality jobs to Avondale.
- Aggressively recruit businesses and employers.
- Build on legislative jobs priorities.
- Advocate at the State Legislature for stronger, more effective economic development tools.
- Establish an Ad Hoc Committee comprised of City representatives and representatives from the business and education communities to attract technology-based businesses to Avondale and explore ways to reduce costs through shared IT resources.

Goal: Community Involvement

Encourage effective coordination and involvement with community groups and other levels of government; promote community involvement among residents.

- Encourage effective coordination and involvement with community groups and other levels of government.
- Promote continued community involvement by residents.
- Continue self-sustaining/low-cost community and special events.

Goal: Financial Stability

Ensure long-term financial stability of the City. Maintain the fund balance, contingency reserves, and service levels to ensure efficient operations.

- Ensure that the public is informed of Avondale's financial position and financial outlook.
- Take a strong position on protecting State Shared Revenues (SSR) and local control.
- Ensure that new and current state legislators are well-informed regarding the importance of SSRs to the cities' ability to provide service to their constituents.
- The Mayor and Council Members, in coordination with the City's Legislative Liaison, will take a more active role in communicating with state legislators regarding the City's fiscally prudent actions, and the impact of any state actions to local government.

Goal: Quality of Life

Provide quality of life options and opportunities in the community.

- Continue to market our quality of life.
- Seek ways to partner with schools on quality of life events and programs.

Goal: Public Safety

Improve public safety in the community.

- Implement the Community Action Team (CAT) at full capacity.
- Develop a plan and funding mechanism for public safety equipment replacement.
- Continue crime reduction efforts.
- Promote positive news coverage as it relates to crime-based stories.

Goal: Environmental Leadership

Meet, and wherever possible, exceed regulations pertaining to water conservation, air-quality and storm water management.

- Continue progressive and proactive efforts with regard to environmental issues.
- Continue to work with the ADEQ and EPA to aggressively pursue action by Crane Co. to address the PGA North Superfund site issue.

Goal: Staff Retention

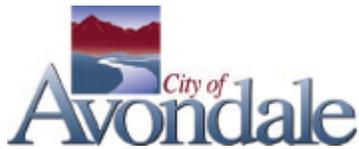
Encourage recruitment and retention of quality and diverse staff and improve administrative capacity.

- Hold employee salaries at the same level until the economic outlook is considerably improved.
- Employees will have to bear any increases in health benefits costs.

Goal: Transportation Management

Optimize multi-modal transportation and traffic flow in the community.

- Represent Avondale's interests at MAG, RPTA, ADOT, and the federal level.
- Promote West Valley cohesion on transportation issues.
- Actively engage in seeking funding for Avondale and West Valley transportation projects at the regional, state and federal levels.
- Improve access to information regarding road construction/traffic delays on the City's website.



CITY COUNCIL REPORT

SUBJECT:

Resolution 2944-1210 – Intergovernmental Agreement with ADOT for the Underdeck Lighting at the I-10 Overpass at Dysart Road

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Sue McDermott, P.E., Director of Development Services & Engineering, 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 and the Arizona Department of Transportation (ADOT) for the under deck lighting at the I-10 overpass at Dysart Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

The Arizona Department of Transportation (ADOT) in the past few years initiated a process to transfer to local governments routine street maintenance responsibility for city owned streets within ADOT right of way. Routine maintenance includes sweeping, crack sealing, seal coating, graffiti removal, pot hole repairs, and minor repair/replacement of pedestrian street lighting including charges for electrical service and use. The City of Avondale and ADOT entered into an agreement on January 26, 2005 transferring street maintenance responsibilities for Dysart Road within ADOT's right-of-way. This agreement excluded costs to connect, operate and maintain under deck lighting on the overpass.

ADOT's on-going improvements along Interstate 10 (I-10) between Sarival Avenue and Dysart Road includes under deck lighting at the I-10 overpass at Dysart Road. The State requires the City to contract with the appropriate utility company for the connectivity and energizing of the under deck lighting which and to invoice ADOT for the work. The purpose of the IGA is to outline responsibilities for the cost of the connectivity and the operation and maintenance of the under deck lighting including responsibility for electric power at Dysart Road.

DISCUSSION:

The IGA identifies and defines the State's and the City's respective responsibilities for the Project. The IGA proposes the following terms of agreement:

ADOT will be responsible for reimbursing the City for actual costs associated with the connectivity and energizing of the under deck lighting at Dysart Road, currently estimated at \$189.00. In addition, ADOT will grant permits to the City's utility contractor (APS) for the electrical work and to the City for future maintenance.

The City will be responsible for contracting with APS for connecting and energizing the under deck lighting at Dysart Road and will invoice ADOT for reimbursement. In addition, the City is responsible for ensuring that all appropriate permits are obtained from ADOT. After the under deck lighting is energized, the City will be responsible for operation and maintenance, including electrical power costs.

BUDGETARY IMPACT:

The current Project cost estimate is \$189.00 and is available in the Engineering Department's budget. In accordance with the IGA, the State will reimburse the City within 45 days of receipt of invoice from the City. Costs associated with the operation, maintenance and emergency maintenance of the under deck lighting at Dysart Road is available in the existing Engineering Department budget.

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution authorizing an Intergovernmental Agreement (IGA) between the City of Avondale and the Arizona Department of Transportation (ADOT) for the under deck lighting at the I-10 overpass at Dysart Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

 [Resolution 2944-1210](#)

RESOLUTION NO. 2944-1210

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO UNDERDECK LIGHTING AT THE I-10 OVERPASS AT DYSART ROAD.

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

SECTION 1. The Intergovernmental Agreement with the State of Arizona relating to underdeck lighting at the I-10 overpass at Dysart Road (the "Agreement") is hereby approved in substantially the form attached hereto as Exhibit A.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2944-1210

(Agreement)

See following pages.

ADOT File No.: IGA/JPA 10-203 I
AG Contract No.: P001-2010-00xxxx
Project No.: IM-010-B (202)B
Project: I-10 Underdeck Lighting
Section: Dysart Road
TRACS No.: 010 MA 126 H7296 01C
MAG TIP ID# is DOT09-752AC
Budget Source Item No.: 43409 / MAINTAGR

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF AVONDALE

THIS AGREEMENT is entered into _____, 2010 pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF AVONDALE, ARIZONA, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties."

I. RECITALS

1. The State is empowered by Arizona Revised Statutes, § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes, § 48-572 and the City Charter, Article I, Section 3 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. As part of the State's on-going improvements along Interstate 10 (I-10) between Sarival Avenue and Dysart Road, the State's work includes underdeck lighting at the I-10 overpass (OP) at Dysart Road, at the State's expense. The State requests the City to contract with the appropriate utility company for the connectivity and energizing of the underdeck lighting. The purpose of this Agreement is to outline responsibilities for the cost of the connectivity and the operation and maintenance of the underdeck lighting including responsibility for electric power at Dysart Road.

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

II. SCOPE OF WORK

1. The State will:

a. Be responsible for actual costs associated with the connectivity and energizing of the underdeck lighting at Dysart Road, currently estimated at **\$189.00**. Review upon notification from the City, any increase costs over the current estimate. If the increase in cost is over 15% of the current estimate, the State will review and, if agreed to, will provide the City with written concurrence.

b. Grant the City's utility contractor, per established procedures of the State's Phoenix Construction District Permit Office, a temporary permit to connect and energize the underdeck lighting at Dysart Road, within the State's rights of way.

c. Upon completion of the connectivity for the underdeck lighting at Dysart Road, attend a final walk through with the City to ensure the underdeck lighting has been satisfactorily connected.

d. Upon completion of the connectivity for the underdeck lighting, and receipt of an invoice from the City (with accompanying backup documentation for the actual costs), and within 45 days, remit the actual costs associated with the connectivity and energizing of the underdeck lighting at Dysart Road.

e. Grant or confirm, per established procedures of the State's Phoenix Maintenance District Permit Office, that the City has a valid annual Blanket Permit on file, for routine/normal maintenance and emergency maintenance work provided by the City within the State's rights of way. Agree any new construction or installation shall require a separate permit through the State's Phoenix Maintenance District Permit Supervisor, as per the Phoenix Maintenance District's established procedures.

2. The City will:

a. Be responsible for contracting with the appropriate utility company for connecting and energizing the underdeck lighting at Dysart Road. Should unforeseen circumstances increase the estimated amount currently identified herein, the City will notify the State of said increase. If said increase is 15% or higher, the City will obtain the State's written concurrence.

b. Ensure that all applicable permits are in place for the appropriate utility company to connect and energize the underdeck lighting at Dysart Road, per established procedures of the State's Phoenix Construction District Permit Office. Additionally, request the utility contractor to notify the City if costs exceed the current estimate.

c. Upon completion of the connectivity for the underdeck lighting at Dysart Road, conduct a final walk through with the State's inspector to ensure the underdeck lighting has been satisfactorily connected.

d. Upon completion of the connectivity for the underdeck lighting, submit an invoice to the State (with accompanying backup documentation) for the actual costs to connect and energize the underdeck lighting at Dysart Road by the City's utility contractor, currently estimated at **\$189.00**.

f. Upon connecting and energizing the underdeck lighting, be responsible for the operation, maintenance and emergency maintenance of the underdeck lighting at Dysart Road, including funding and paying for the electric power.

g. Obtain, per established procedures of the State's Phoenix Maintenance District Permit Office, a valid annual Blanket Permit for the routine/normal maintenance and emergency maintenance work provided by the *City* within the State's rights of way. Agree, any new construction or installation shall require a separate permit as per the Phoenix Maintenance District's established procedures, of which may be obtained through the Phoenix Maintenance District Office referenced herein.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon signing and dating by the State's Attorney General.

2. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said work and any reimbursements; provided however, any provisions herein for maintenance and electric power shall be perpetual. This Agreement may be modified upon mutual consent of both Parties by amendment of this Agreement.

3. To the extent permitted by law, each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "indemnitee") from and against any and all claims, losses, liability, costs or other expenses (including, but not limited to, reasonable attorneys' fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death), property damage and any other Claims (including, but not limited to, claims of derivative or vicarious liability), which are caused by the act, omission, negligence, misconduct or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.

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

4. Insurance Requirements for the City's Contractors: The *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Agreement. The State in no way warrants that the minimum limits contained herein are sufficient to protect the City or its Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the City are free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

- General Aggregate \$2,000,000
 - Products – Completed Operations Aggregate \$1,000,000
 - Personal and Advertising Injury \$1,000,000
 - Blanket Contractual Liability – Written and Oral \$1,000,000
 - Fire Legal Liability \$ 50,000
 - Each Occurrence \$1,000,000
- a. The policy shall be endorsed to include the following additional insured language: *“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor”.*
 - b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

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

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

- a. The policy shall be endorsed to include the following additional insured language: *“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor”.*
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

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

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under Arizona Revised Statutes § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies are to contain, or be endorsed to contain, the following provisions:
1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees *and the City* wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by the Agreement.
 2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
 3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its Contract with the City to the IGA.
- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Agreement shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to (State of Arizona Department Representative's Name and Address) and shall be sent by certified mail, return receipt requested.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.
- All certificates required by this Agreement shall be sent directly to ADOT's Risk Management Division. The State of Arizona project/Agreement number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.
- F. **SUBCONTRACTORS:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. APPROVAL: Any modification or variation from the *insurance requirements* in any Intergovernmental Agreement must have prior approval from the State of Arizona Department of Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.

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

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes, § 38-511.

6. All books, accounts, reports, files and other records of either party relating to the Agreement or the work done under this Agreement shall be subject at all reasonable times to inspection and audit by the other party. Such records shall be available for inspection upon five business days' notice at the offices of the Party in possession of the records.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds. Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. Each Party will be responsible for establishing and maintaining its own budget for the Project.

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

11. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party 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 meaning set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

12. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes §12-

1518, as applicable.

13. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation (ADOT)
Joint Project Administration
205 South 17th Avenue, MD 637E
Phoenix, AZ 85007
(602) 712-7124 FAX : 602-712-3132

City of Avondale
City Manager
11465 West Civic Center Drive, Suite 120
Avondale, AZ 85323

ADOT Financial Management Services
Attn : Project Accounting
206 S. 17th Avenue, Mail Drop 204B
Phoenix, Arizona 85007
(602) 712-8471 Fax

City of Avondale Finance
Attn: Finance and Budget Director

For Construction District Permit to
Construct Utilities Contact:

Arizona Department of Transportation
Phoenix Construction District Permits Office
4550 N. Black Canyon Frwy., Mail Drop E700
Phoenix, AZ 85017
(602) 712-8695

For Maintenance Permits – Contact:

Arizona Department of Transportation
Phoenix Maintenance district Permits Office
2140 S. 22nd Avenue, Mail Drop PM00
Phoenix, AZ 85017
602-712-XXXX

14. In accordance with Arizona Revised Statutes § 11-952, (D), attached hereto and incorporated herein, is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

15. The City and the State (Arizona Department of Transportation) (ADOT) warrants compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State (ADOT) to enable the State (ADOT) to comply with the requirements of the Act, as may be applicable.

16. The State and the City will comply with Arizona Revised Statutes § 41-725, when applicable. Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of Arizona Revised Statutes § 41-725.

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

CITY OF AVONDALE

STATE OF ARIZONA

Department of Transportation

By _____
MARIE LOPEZ ROGERS
Mayor

By _____
ROBERT SAMOUR, P.E.
Deputy State Engineer, Valley Transportation

ATTEST

By _____
CARMEN MARTINEZ
City Clerk

JPA 10-203-Dysart Underdeck Lighting
26Oct2010-Ig
17Nov2010 - ghc

IGA/JPA 10-203 I

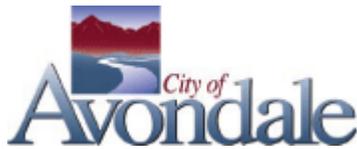
ATTORNEY APPROVAL FORM FOR THE CITY OF AVONDALE

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF AVONDALE, an Agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2010

City Attorney



CITY COUNCIL REPORT

SUBJECT:

Resolution 2941-1210 - Intergovernmental Agreement to Provide Detention Services to the City of Tolleson

MEETING DATE:

December 13, 2010

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

PURPOSE:

The Avondale and Tolleson Police Departments conducted a trial partnership to determine if the Avondale Detention Facility could provide detention services to the Tolleson Police Department in a cost effective manner. The results indicate a significant fiscal and operational benefit to both Tolleson and Avondale. Staff recommends Council approve an Intergovernmental Agreement (IGA) between Tolleson and Avondale allowing Avondale to provide detention services to Tolleson who in turn will fund one full-time Detention Officer and pay a monthly stipend to the Avondale City Court for services.

BACKGROUND:

Beginning April 5, 2010, the Avondale Police Detention Facility began providing detention services for the Tolleson Police Department on a trial basis. Since that time, when a Tolleson Officer made an arrest, the prisoner was charged with a crime and he/she was no longer taken to the Maricopa County Jail located at 201 S. Madison by the arresting Officer from Tolleson. The prisoners were transported to the Avondale Detention Facility located at 519 E. Western Avenue, which is approximately ten miles closer to the City of Tolleson, thus saving initial transport and prisoner processing time for the Tolleson Police Officer. Most significantly, the City of Tolleson saved booking cost per prisoner by booking misdemeanor prisoners into Avondale rather than County Jail. Further, Tolleson saved on housing costs per day for those prisoners for the duration of their sentence.

During this trial period, Tolleson felony prisoners were booked into the Avondale Detention Facility by Tolleson. The prisoner was then transported to County Jail by an Avondale Detention Officer when they transported a felony prisoner arrested by an Avondale Police Officer. This saved additional transport time for the Tolleson Officer, who no longer transported the prisoner to County Jail, but returned to patrol service in Tolleson. It created only a minor workload increase for the Avondale Detention Officer who was typically already transporting a felony prisoner arrested by an Avondale Police Officer.

When a Tolleson or Avondale Police Officer arrested a subject for a misdemeanor charge that subject was transported to the Avondale Detention Facility for booking and for an initial appearance. This also saved the Tolleson Officer a significant amount of time since the misdemeanor prisoner was processed at the Avondale Detention Facility. This involved booking the misdemeanor prisoner then having that prisoner participate in his/her initial appearance with the Avondale City Court Judge. Prior to this trial period all of these steps were conducted at the Maricopa County Jail which added additional transport and prisoner processing time for the Tolleson Police Officer making a misdemeanor arrest. Once the Tolleson misdemeanor prisoner saw a Judge, if not released, they served their sentenced time in the Avondale Detention Facility. This means that the City of Tolleson

was not paying County Jail booking and daily housing fees on these prisoners as they have in the past. This is the most significant realized cost-savings for Tolleson.

WORKLOAD REVIEW:

Tolleson Prisoner Statistics Table:

Service Type	Numerical Statistics by Month						
	APR 2010	MAY 2010	JUNE 2010	JUL 2010	AUG 2010	SEPT 2010	TOTALS
Initially Booked into AVPD Detention Facility	23	29	19	29	26	33	159
Prisoner Housing Days - Time Served in Avondale Detention Facility	51	113	73	96	65	96	494
Transports for Tolleson (To and from Court/MCSO)	32	68	39	86	53	91	371
Initial Court Appearance at AVPD	9	10	3	14	6	13	55

Tolleson Cost Savings Table [Six (6) Month Trial]:

Service Type	Estimated Savings	Estimated Annual Savings
Bookings into Avondale Detention Facility	\$30,569.34	\$61,138.68
Housing Days at Avondale Detention Facility	\$35,400.04	\$70,800.08
Transports (Manhours / Vehicle Costs)	\$18,086.25	\$36,172.50
Estimated TOTAL Cost Savings	\$84,055.63	\$168,111.26

AVONDALE CITY COURT ASSESSMENT

Avondale City Court Judge, Richard Lynch, has evaluated the effect of the trial period on the Avondale City Court. He has determined that since the inception of a trial period beginning April 10, 2010, through September 30, 2010, the Avondale City Court conducted 55 initial appearances for Tolleson detainees at the Avondale City Jail. A review of the process is helpful in evaluating the cost to the Avondale City Court for this service.

In the case of a person arrested on a new charge, an Avondale City Court Clerk III must receive and organize the complaint filed by the Police and other documents detailing the reason for the arrest, the arrestee's prior criminal history, the views of the alleged victim regarding release, and submit them to the City Judge for review. The judge then addresses the arrestee, advises him/her of the charge(s) and of certain constitutional rights and must order the arrestee either held on a bond and the amount of the bond, or the release of the arrestee and/or the conditions of the release pending the arrestee's next court date which is set by the City Judge in coordination with the Tolleson Court's docket. Once that is accomplished the Court Clerk transmits the various documents back to the Avondale Jail for further processing by the staff there. This process is repeated every calendar day including weekends and holidays. There is no court staff involved in this process on weekends and holidays.

In cases where a person is arrested for not complying with an already-adjudicated case, the process is simpler but still requires many of the stated administrative tasks. Because these functions are typically carried out in conjunction with Avondale arrestees, it is hard to quantify the cost to the City for this service to Tolleson.

The City Court recommends a charge to the City of Tolleson tied to the cost of Avondale Pro tem judges who preside at weekend hearings, including Fridays. Pro tem judges are paid three hours per day at a rate of \$55.00 per hour, which rate is less than the hourly rate for the City Judge, but greater than the hourly rate for a Clerk III. Accordingly, the City Court believes that the City will be fairly compensated by charging Tolleson a weekly rate of \$330.00 per week, which represents two days (6 hours) per week of weekend Pro tem coverage. This charge can be stated as a monthly cost of \$1,430.00 and an annual cost of \$17,160.00.

BUDGETARY IMPACT:

Then annual cost for one full time Detention Officer will be charged to the City of Tolleson. The cost for salary and employee related expenses for one (1) full time Detention Officer is \$72,200.00, with a one-time cost of \$10,150.00. In addition, the City of Tolleson will pay a monthly fee for Avondale City Court services of \$1,419.00. This results in a **total of \$99,150.00 for the first year.**

RECOMMENDATION:

The Avondale and Tolleson Police Departments and the Avondale City Court recommend approving an Intergovernmental Agreement between the City of Avondale and the City of Tolleson which provides that the Avondale Detention Facility and the Avondale City Court provide prisoner booking, transportation and misdemeanor sentence service. In exchange, the City of Tolleson will provide funds to pay for one full-time Detention Officer and a monthly stipend to the Avondale City Court.

ATTACHMENTS:

Click to download

 [Resolution 2941-1210](#)

RESOLUTION NO. 2941-1210

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TOLLESON RELATING TO DETENTION SERVICES.

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

SECTION 1. The Intergovernmental Agreement between the City of Avondale and the City of Tolleson relating to detention services (the “Agreement”) is hereby approved substantially in the form attached hereto as Exhibit A and incorporated herein by reference.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2941-1210

[Intergovernmental Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE CITY OF TOLLESON**

THIS INTERGOVERNMENTAL AGREEMENT (this “Agreement”) is entered into as of January 1, 2011 between the City of Avondale, an Arizona municipal corporation (“Avondale”), and the City of Tolleson, an Arizona municipal corporation (“Tolleson”). Avondale and Tolleson are referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

A. Avondale owns, and the City of Avondale Police Department operates, a detention center, which is located at 519 East Western Avenue, Avondale, Arizona (the “Detention Facility”).

B. The City of Tolleson Police Department desires to utilize the Detention Facility for the processing and the temporary incarceration of Tolleson prisoners (the “Incarceration Services”).

C. The City of Tolleson Police Department also desires to utilize the Avondale City Court Judge for the administration of initial court appearances for each of the Tolleson prisoners charged with a misdemeanor offense (the “Administrative Services”).

D. The City of Tolleson Police Department also desires to engage the City of Avondale Police Department to transport Tolleson prisoners charged with felony offenses (the “Transportation Services”) to the Maricopa County Jail located at 201 South 4th Avenue, Phoenix, Arizona (the “County Jail”).

E. Avondale and Tolleson are authorized to enter into this Agreement under the authority of ARIZ. REV. STAT. § 11-951 *et seq.*

F. The Parties desire to define the terms and conditions under which Avondale will perform the Incarceration Services, the Administrative Services and the Transportation Services (collectively, the “Services”).

AGREEMENT

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

1. Services.

1.1 Incarceration Services. Except as provided in this Subsection 1.1, Avondale agrees to accept and process all Tolleson prisoners transported to the Detention Facility by Tolleson and to incarcerate such prisoners until such time as Avondale either (i) releases such prisoners on the order of the court or (ii) transports such prisoners to the County Jail. The Parties agree that the Incarceration Services will be administered for the Tolleson prisoners on the same basis that Avondale incarcerates Avondale prisoners.

a. Avondale shall not be required to accept, process or incarcerate any Tolleson prisoner where:

i. The Tolleson prisoner's medical condition would pose a threat to Avondale prisoners or to Detention Facility employees and/or the Tolleson prisoner's medical condition would create a need for medical care that cannot be provided at the Detention Facility;

ii. The Tolleson prisoner's behavior or mental state demonstrates that the prisoner will pose a threat to Avondale prisoners or to Detention Facility employees; or

iii. Because of events outside of the control of Avondale, it will be unfeasible for the Avondale City Court Judge to administer the Administrative Services for the Tolleson prisoner prior to the next regularly scheduled Avondale initial court appearances.

b. Tolleson shall provide, as requested by Avondale, such administrative supplies as may be necessary for Avondale to accept and process Tolleson prisoners including, but not limited to, fingerprint compliance forms and prisoner DNA packets.

c. Subject to Section 4 below, Tolleson shall be responsible for paying all costs incurred by third parties providing medical care to Tolleson prisoners while such prisoners are in the custody of Avondale.

1.2 Administrative Services. Avondale agrees to make available the Avondale City Court Judge to administer the initial court appearances for each of the Tolleson prisoners charged with misdemeanor offenses. The Parties agree that the Administration Services will be administered for the Tolleson prisoners on the same basis that the Avondale City Court Judge administers initial court appearances for each of the Avondale prisoners charged with misdemeanor offenses.

1.3 Transportation Services. Avondale agrees to transport the Tolleson prisoners charged with felony offenses from the Detention Facility to the County Jail. The Parties agree that the Transportation Services will be administered for the Tolleson prisoners on the same basis that Avondale transports Avondale prisoners to the County Jail. The Parties

acknowledge that Avondale may, but is not required to, transport Tolleson prisoners to or from any locations other than the Detention Facility and the County Jail.

2. Compensation. Tolleson shall pay Avondale the following compensation:

2.1 Initial Payment. Upon execution of this Agreement, Tolleson shall pay Avondale \$54,830.00 calculated as follows:

a. The cost to Avondale to pay six months' salary plus six months' benefits for one full-time Detention Facility officer ("Salary Payment"), which amount the Parties agree is \$36,100. For purposes of any Renewal Term (defined below), the Parties agree that the Salary Payment shall be equal to the cost to Avondale to pay one-year's salary plus one-year's benefits for one full-time Detention Facility officer;

b. The cost to Avondale to provide six months of Administrative Services ("Administrative Payment"), which amount the Parties agree is currently \$8,580.00. For purposes of any Renewal Term, the Parties agree that the Administrative Payment shall be equal to the cost to Avondale to provide one year of Administrative Services to Tolleson; and

c. The one-time cost to Avondale to pay for certain ancillary expenses incurred by Avondale in preparing to perform the Services, which amount the Parties agree is \$10,150.00.

2.2 Renewal Payments. Prior to July 30 of each Renewal Term, Tolleson shall pay Avondale the Salary Payment and the Administrative Payment, in amounts to be agreed upon by the Parties prior to the beginning of each Renewal Term.

3. Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2011 (the "Initial Term"), unless terminated as otherwise provided herein. After the expiration of the Initial Term, this Agreement shall automatically renew for up to four successive one-year terms (the "Renewal Terms"), subject to termination as provided in Section 6 below. At least 30 days prior to the termination of either the Initial Term or any of the Renewal Terms, either party may provide written notification to the other party of its intention not to renew this Agreement.

4. Indemnification. To the extent permitted by law each Party shall defend, indemnify and hold harmless the other Party and its departments, officers, employees and agents from all losses, damages, claims, liabilities and expenses (including reasonable attorneys' fees) for damages to property or for injury to or death of persons which relate to the performance of this Agreement and which result from any act, omission or negligence of the indemnifying Party or its departments, officers, employees or agents.

5. Insurance. The Parties agree to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations and actions as set forth in this Agreement, including but not limited to public entity insurance. The acquisition of

insurance or the maintenance and operation of a self insurance program may fulfill the insurance requirement.

6. Termination.

6.1 Convenience. This Agreement is for the convenience of the Parties and, as such, may be terminated without cause during any Renewal Term by either Party by providing the non-terminating Party 30 days' written notice of its intention to terminate. Neither Party may terminate this Agreement for convenience during the Initial Term.

6.2 Breach. In addition to any lawfully available remedies for breach of this Agreement, this Agreement may be terminated by either Party for material breach 30 days after written notice is given to the defaulting Party specifying the cause of the breach if such default is either not cured within said 30-day period or the cure thereof is not commenced within such 30-day period and thereafter continuously and diligently pursued to conclusion. In no event shall such cure period extend longer than 90 days.

7. Independent Contractor. Avondale and Tolleson acknowledge and agree that, in providing the services under this Agreement, Avondale shall be considered an independent contractor, not an employee or agent of Tolleson. Avondale and its employees are not entitled to worker's compensation benefits from Tolleson. Tolleson does not have the authority to supervise or control the actual work of Avondale or its employees. Avondale, and not Tolleson, shall determine the time of its performance of the Services provided under this Agreement so long as Avondale performs the Services as set forth in Section 1 above. Tolleson and Avondale do not intend to nor will they combine business operations under this Agreement.

8. Relationship of the Parties. Each Party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venturer, associate, or any other representative capacity of the other. Each Party shall be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this Agreement.

9. Amendment. This Agreement may be modified only by a written amendment approved by the Parties' respective governing bodies and signed by persons duly authorized to enter into contracts on behalf of Avondale and Tolleson. Any attempt at oral modification of this Agreement shall be void and of no effect.

10. Records. Both Parties shall maintain the records required in this Agreement for a period of two years after the termination of this Agreement.

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

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

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix Arizona 85004-2553
Attn: Andrew J. McGuire, Esq.
Facsimile: (602) 254-4878

If to Tolleson: City of Tolleson
9555 West Van Buren
Tolleson, Arizona 85353
Attn: Reyes Medrano, Jr., City Manager
Facsimile: (623) 907.2629

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix Arizona 85004-2553
Attn: Scott W. Ruby, Esq.
Facsimile: (602) 254-4878

or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (i) when delivered to the Party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission or e-mail during the normal business hours of the recipient, with proof of delivery. 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.

12. Severability and Savings. If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion without inequity to the Parties.

13. Program Continuation Subject to Appropriation. The provisions of this Agreement for payment of funds by either Party shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. Each Party shall be the sole judge and authority in determining the availability of funds under this Agreement and each Party shall keep the other Party fully informed as to the availability of funds. The obligation of

either Party to make any payment pursuant to this Agreement is a current expense of each Party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of either Party. If the either Party fails to appropriate money sufficient to pay the reimbursements as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and each Party shall be relieved of any subsequent obligation under this Agreement.

14. Entire Agreement. This Agreement comprises the entire agreement of the Parties and supersedes any and all other agreements or understandings, oral and written, whether previous to the execution hereof or contemporaneous herewith. Any amendments or modifications to this Agreement shall be made only in writing and signed by the Parties to this Agreement.

15. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

16. Cancellation. The Parties hereto acknowledge that this Agreement is subject to cancellation pursuant to ARIZ. REV. STAT. § 38-511. Either Party may cancel this Agreement without penalty or further obligations by either Party or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of either Party or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other Party to the Agreement in any capacity or a consultant to any other Party of the Agreement with respect to the subject matter of the Agreement.

17. Compliance with Non-Discrimination Laws. The Parties hereto shall comply with Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act, and State Executive Order No. 75-5 which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities. The Parties hereto shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, and the Americans with Disabilities Act.

18. Disposition of Property upon Termination. The Parties do not anticipate having to dispose of any property upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner. With respect to the compensation paid by Tolleson to Avondale pursuant to Section 2 above: (i) if Avondale terminates this Agreement because of a material breach of the Agreement by Tolleson, Avondale shall be entitled to retain the compensation paid by Tolleson; (ii) if Tolleson terminates this Agreement because of a material breach of the Agreement by Avondale or if either Party terminates this Agreement for convenience, Avondale shall return to Tolleson a prorated portion of the compensation paid by Tolleson pursuant to Section 2 above calculated as of the date Tolleson provides written notice to Avondale of the material breach.

19. Approvals. With respect to any provision of this Agreement requiring the consent or approval of either Party as to any matter, unless specifically provided to the contrary in the particular provision requiring such consent or approval, that consent or approval shall not be unreasonably withheld, conditioned or delayed by the Party whose consent or approval is required.

20. Waiver. The waiver of any breach of this Agreement shall not be deemed to amend this Agreement and shall not constitute a waiver of any other subsequent breach.

21. Headings. Headings of this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

22. Sudan/Iran. Pursuant to ARIZ. REV. STAT. §§ 35-391, *et seq.* and 35-393.06, *et seq.*, the Parties hereby warrant, and represent to each other that the Parties and the Parties' subcontractors do not have, and will not have a scrutinized business operation in either Sudan or Iran during the term of this Agreement.

23. E-Verify. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Parties warrant compliance, on behalf of themselves and any and all subcontractors, with all federal immigration laws and regulation that relate to their employees and compliance with the E-Verify requirements under ARIZ. REV. STAT. § 23-214(A). The Party's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and the non-breaching Party may terminate this Agreement. The Parties retain the legal right to inspect the papers of the other Party to ensure that the Party is complying with the above-mentioned warranty under this Agreement.

24. Time of Essence. Time is of the essence with respect to the performance of each and every term, condition, and obligation of this Agreement.

25. Conflict Waiver. The Parties recognize that the attorneys who sign as to the form of this Agreement represent multiple Parties to the Agreement and each Party acknowledges and waives any potential conflict of interest that might pose. The Parties acknowledge that this Agreement was prepared by Gust Rosenfeld and that each Party has specifically agreed to waive any conflict presented by joint representation.

[Signatures on following page.]

IN WITNESS WHEREOF, Avondale and Tolleson have executed this Agreement as of the date of the last signature set forth below.

“Avondale”

“Tolleson”

CITY OF AVONDALE, an Arizona
municipal corporation

CITY OF TOLLESON, an Arizona
municipal corporation

Marie Lopez Rogers, Mayor

Adolfo F. Gámez, Mayor

ATTEST:

ATTEST:

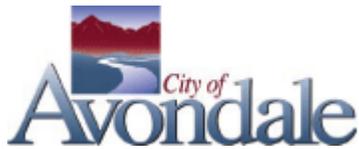
Carmen Martinez, City Clerk

Chris Hagen, City Clerk

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned City Attorneys acknowledge that (i) they have reviewed the above agreement on behalf of their respective clients and (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Andrew J. McGuire
Avondale City Attorney

Scott W. Ruby
Tolleson City Attorney



CITY COUNCIL REPORT

SUBJECT:

Resolution 2946-1210 - Intergovernmental Agreement with City of Phoenix for the purpose of joining COPLINK

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Janeen Gaskins, Grants Administrator (623) 333-1025

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council authorize the City Manager to enter into an intergovernmental agreement with the City of Phoenix for the purpose of joining the COPLINK program to enhance the effectiveness of law enforcement by increasing information sharing related to crime and criminal activities.

BACKGROUND:

For the past six years the Avondale Police Department has attempted to join COPLINK, a database used to share criminal records generated by all agencies with access or access/input to the system. Twenty-nine Arizona law enforcement agencies currently participate in the COPLINK program, with an additional twenty-three anticipated to join in the next year.

Arizona Homeland Security - Urban Area Security Initiative has determined that information sharing between agencies is a priority for the security of the state. Maricopa County submitted a grant application that would allow pass-through funding to support COPLINK participants. Avondale is requesting City Council Authorization to accept this funding to purchase equipment and services for this program through a separate IGA with Maricopa County.

DISCUSSION:

The City of Phoenix Police Department is a designated "node" that oversees the implementation of connecting local member agencies to the COPLINK system. The COPLINK system has been developed to share information throughout the Southwestern portion of the United States. In order to participate in the program Avondale must enter into an Intergovernmental Agreement with the City of Phoenix. This IGA will allow Avondale to have access to confidential law enforcement information from all other member agencies. This project will enhance the effectiveness and efficiency of law enforcement in the region and the nation.

BUDGETARY IMPACT:

Funding for this program will be supported by a grant from Arizona Homeland Security, which will be managed by Maricopa County. A separate request to City Council has been submitted. Funding from this grant will cover equipment and services. On-going cost will be absorbed in the Police Department's budget under line item 101-6110-00-6310.

RECOMMENDATION:

Staff is requesting that the City Council adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement with the City of Phoenix for the purpose of joining the COPLINK program to enhance the effectiveness of law enforcement by increasing information sharing related

to crime and criminal activities.

ATTACHMENTS:

Click to download

📎 [Resolution 2946-1210](#)

RESOLUTION NO. 2946-1210

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX RELATING TO INFORMATION SHARING REGARDING CRIME AND CRIMINAL ACTIVITIES.

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

SECTION 1. The Intergovernmental Agreement with the City of Phoenix relating to information sharing regarding crime and criminal activities (the “Agreement”) is hereby approved in substantially the form attached hereto as Exhibit A.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2946-1210

(Agreement)

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
City of Avondale
AND
CITY OF PHOENIX
FOR SHARING LAW ENFORCEMENT INFORMATION

This Intergovernmental Agreement (" Agreement") is made and entered into this ___ day of _____ 2010, (the "Effective Date") by and between the City of Avondale, Arizona, a municipal corporation duly organized and existing under the laws of the State of Arizona (hereinafter referred to as "Agency"), and the City of Phoenix, a municipal corporation duly organized and existing under the laws of the State of Arizona (hereinafter referred to as "City" or "PPD").

WHEREAS, the parties desire to enter into this Agreement on behalf of their respective law enforcement agencies to share law enforcement information for the purpose of enhancing the public safety, health, and welfare; and

WHEREAS, the parties are empowered to enter into this Agreement pursuant to A.R.S. § 13-3872 and Title II, Chapter 7, Article 3, Arizona Revised Statutes as authorized by their legislative or other governing bodies, and, for the City and Agency individually, pursuant to Chapter 2, Section 2 (i), of the Charter of the City of Phoenix and Section 3, Article 1 of the Charter of the City of Avondale, respectively.

NOW, THEREFORE, the parties do hereby agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is to enhance the effectiveness of law enforcement by increasing information sharing related to crime and criminal activities.

The City has assisted in the design and implementation of a method of sharing law enforcement information that permits electronic access to confidential law enforcement information maintained by other law enforcement agencies. Generally, the information involved is information that cannot presently be easily accessed by anyone outside of the law enforcement agency holding the information.

The system that has been developed is being implemented throughout the Southwestern portion of the United States. The system will consist of centralized node agencies in specific geographic areas, each of which will connect local member agencies to the system. Through the system, member agencies will have access to confidential law enforcement information from all other member agencies.

This Agreement adds the City of Avondale Police Department as a member agency in the Phoenix node, to share law enforcement information controlled by the Phoenix node and to have access to information from other member agencies available through other nodes.

ARTICLE II. DEFINITIONS

- A. "Licensed software" means all computer programs and the supporting agreement between the City and Knowledge Computing Corporation.
- B. "COPLINK" means the CONNECT and DETECT software application modules and any other application modules licensed to the member agencies by Knowledge Computing Corporation under the name COPLINK.
- C. "Member agency" means any law enforcement, public safety, or criminal justice agency that has entered into an agreement with the City to share law enforcement information using COPLINK.
- D. "Knowledge Computing Corporation" (hereinafter "KCC") means a corporation with its principal place of business at 6601 E. Grant Road, Suite 201, Tucson AZ. 85715, that is the owner and developer of COPLINK.
- E. "Data Repository" means the web servers, database servers, and backend databases maintained by Agency and City to facilitate the sharing of law enforcement information between them and other member agencies.
- F. "Node agency" means the member agency that is the controlling agency in each geographic area. The City of Phoenix Police Department is the controlling agency in its geographic area.
- G. "Background screening" means a background investigation that is fingerprint-based, including checks of both the state and national criminal history repositories. A person who has a felony conviction for any offense, or who is arrested for, charged with or under indictment for any felony offense, shall not be granted access to COPLINK.

ARTICLE III. EFFECTIVE DATE AND TERM

This Agreement will commence upon the Effective Date and continue in force for ten (10) years unless either party provides sixty (60) days' prior written notice to the other party of its intent to terminate the other party's access to its records through the methods provided in this Agreement.

ARTICLE IV. DATA ACCESS AND SECURITY REQUIREMENTS

- A. Data Access: Access to other member agencies' law enforcement information will be provided utilizing the TCP/IP communications protocol over a network segment maintained by the Arizona Department of Public Safety or any other secure network configuration that is mutually acceptable to the member agencies. The law enforcement information residing in the COPLINK data repositories hosted by the agencies shall be available on a 24-hour a day, 7 days a week basis with scheduled system downtime limited to those hours required for any necessary system maintenance activities. Member agencies agree to inform each other in advance, whenever possible, of scheduled system downtimes.
- B. Data Sharing: COPLINK data will be shared with member agencies that have entered into an agreement with a node agency. No member or node agency will share information gained through this system with an agency that is not a member agency, except by written permission of the member agency that originated the information.

- C. Security Requirements: Member and node agencies agree to enforce and maintain security requirements for COPLINK systems and networks as specified in the Technical Requirements Section of the Federal Bureau of Investigation's Criminal Justice Information Systems Security Policy. Exceptions to the above policy shall not be implemented by any member agency without prior written approval of all node agencies.
- D. Limitation of use: Member and node agencies acknowledge that the law enforcement information hosted in the COPLINK data repositories shall be used for law enforcement purposes only, and that only law enforcement agency employees that have passed a background screening will be allowed access to the COPLINK system.
- E. If any member agency violates the requirements of this Agreement with regard to access to or the sharing of information, the node agency connecting that member agency may disconnect the member agency. Except in the case of a critical emergency as determined in the sole discretion of the member agency, access shall not be terminated by a node agency until the offending member agency has been provided with sixty (60) days' prior written notice of the violation and the opportunity to correct the violation.
- F. If any member agency believes that another agency is allowing unauthorized access to or use of the member agency's data, the member agency may withdraw from the shared data system. Except in the case of a critical emergency, a member agency shall not withdraw from the system until the offending agency has been provided with sixty (60) days' prior written notice of the violation and the opportunity to correct the violation.
- G. All disputes concerning access shall be resolved by agreement among the node agencies. In the absence of agreement, the data sharing link of the offending agency shall be terminated.

ARTICLE V. INFORMATION OWNERSHIP, RELEASE AND ACCURACY

- A. Control and Release Constraints: Member and node agencies retain control of all of the information that they provide through the system at all times. Any request for access to information hosted in COPLINK Data Repositories that is not authorized under current agreements will be referred to the member agency originating the information being requested. Except as required by law, information shall not be made available to any unauthorized requestor without the approval of the originating member agency.
- B. Information Accuracy: Each member agency acknowledges that the law enforcement data maintained in the COPLINK Data Repositories consists of information that may or may not be accurate. To the extent permitted by law, each member agency that accesses or uses the law enforcement data maintained in the COPLINK Data Repositories agrees to indemnify and hold harmless all other member agencies for any liability that may arise due to the inaccuracy of any information residing in the COPLINK Data Repositories.

ARTICLE VI. FINANCIAL CONSIDERATIONS

- A. Each node and member agency is responsible for the cost of acquiring and maintaining the necessary hardware and licensed software to participate in this system. Upon termination of this Agreement each member agency shall retain ownership of all equipment and other personal property it acquired to participate in this system. Nothing in this Agreement shall be construed to require any member agency to fund the activities of any other member agency.
- B. Node and member agencies may individually or collectively apply for grant funding for this system. Any joint grant funding which may result from such applications will be considered to be outside of this Agreement. Such monies shall in no way be controlled by or fall under the jurisdiction of this Agreement.
- C. Agency agrees to pay PPD an annual usage charge for access to data housed at the Phoenix node. Agency will be invoiced for this charge annually, in July of each year. also agrees to reimburse PPD for costs charged by KCC in support of Agency data load. PPD may terminate Agency's access to the Phoenix node COPLINK data if the Agency fails to pay the annual usage charge within ninety (90) days of Agency's receipt of the invoice. The annual usage charge will be \$100.00 per Agency user of the Phoenix node. The count of Agency users to be invoiced by PPD will be equal to the number of Agency users with passwords to access the Phoenix node as of July 1 of each year.

ARTICLE VII. LIMITATION OF LIABILITY

- A. For the purposes of worker's compensation, an employee of a party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another party pursuant to this particular intergovernmental agreement for mutual aid in law enforcement, shall be deemed to be an employee of the party who is the employee's primary employer and of the party under whose jurisdiction and control the employee is then working as provided in A.R.S. §23-1022(D) and the primary employer party of such an employee shall be solely liable for payment of worker's compensation benefits for the purpose of this section. Each party herein shall comply with provisions of A.R.S. §23-1022(E) by posting the public notice required. Further, the personnel of either party to this Agreement will not for any purpose be considered employees or agents of the other party and each party assumes full responsibility for the actions of its personnel while performing services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.
- B. Except for the purposes of worker's compensation as noted in the preceding paragraph of this Article, each party shall be solely responsible and liable for claims, demands or judgments (including costs, expenses and attorney fees) resulting from personal injury to any person or damage to any property arising out of its own employee's performance under this Agreement. Each party shall have the right of contribution against the other parties with respect to tort liability judgments should both parties under this agreement be found liable. This right of contribution shall not apply to any settlement or demand and each party shall be solely responsible for its own acts or omissions and those of its officers and employees by reason of its operations under this Agreement. This responsibility includes automobile liability. Each party represents that it shall maintain for the duration of this Agreement liability insurance. The parties may fulfill their obligations by programs of self-insurance providing protection.
- C. Each party agrees to be solely responsible for any expense resulting from industrial insurance by its employees incurred as a result of operations under this Agreement.

ARTICLE VIII. METHOD OF EXECUTION

This Agreement may be executed in one or more identical counterparts each of which shall be deemed an original, but all of which taken together shall constitute one agreement.

ARTICLE IX. NOTICE

Any notice required or given pursuant to the Agreement shall be in writing and either delivered in person, deposited in the U.S. Mail, sent by transmission facsimile or deposited with any express service addressed as follows. Notice will be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the third day after it is deposited in the U.S. Mail, or on the second day after its deposit with any express service. Any time period stated on a notice will be computed from the time the notice is deemed received. Notices sent by facsimile transmissal will also be sent by regular mail to the recipient. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

To City: Lori Rhyons, Bureau Administrator
Computer Services Bureau
Phoenix Police Department
620 W. Washington Street, B22
Phoenix, Arizona 85003
FAX (602) 534-1168

To Agency: City of Avondale, Arizona
City Manager
11465 W. Civic Center Dr.
Avondale, AZ 85323
FAX (623) 333-0120

ARTICLE X. CANCELLATION

The parties understand and acknowledge that each party may cancel this Agreement pursuant to Section 38-511, Arizona Revised Statutes.

ARTICLE XI. E-VERIFY AND SCRUTINIZED BUSINESS OPERATIONS

- A. To the extent applicable under Arizona Revised Statutes § 41-4401, each party and its subcontractors warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under Arizona Revised Statutes § 23-214(A). A breach of the above-mentioned warranty by any party or its subcontractors shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the non-breaching party. Each party retains the legal right to randomly inspect the papers and records of the other party's or its subcontractors' employees who work on the Agreement to ensure that the other party or its subcontractors are complying with the above-mentioned warranty.
- B. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each party 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 meaning set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any party determines that another party submitted a false certification, that party may impose remedies as provided by law including terminating this Agreement.

IN WITNESS WHEREOF, the chief law enforcement officer or chief executive officer of the parties hereto have given their respective consents authorized by A.R.S. §13-3872 and the parties hereto have executed this Agreement by and through their respective officers duly authorized.

IN WITNESS WHEREOF the parties have executed the Agreement between Agency and the City as of the date first written above.

City of Phoenix, a municipal corporation duly organized and existing under the laws of the State of Arizona

City of Avondale, Arizona, a municipal corporation duly organized and existing under the laws of the State of Arizona

By: _____
Jack F. Harris, Public Safety Manager

By: _____
Charles P. McClendon, City Manager

The attorneys undersigned have determined that this Agreement is in proper form and is within the powers and authority granted under the laws of this state to their respective public agencies, in accordance with A.R.S. § 11-952(d).

By: _____
City Attorney

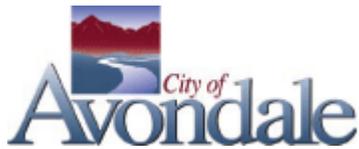
By: _____
City Attorney

Attest:

Attest:

By: _____
City Clerk

By: _____
City Clerk



CITY COUNCIL REPORT

SUBJECT:

Resolution 2945-1210 - Intergovernmental Agreement with Maricopa County relating to the urban area security initiative grant program

MEETING DATE:

December 13, 2010

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 approve a resolution authorizing an intergovernmental agreement with the Maricopa County Sheriff's Office for the purpose of accepting grant funding from the Arizona Department of Homeland Security in the amount of \$12,543 to purchase COPLINK equipment and services related to law enforcement information sharing and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

For the past six years the Avondale Police Department has attempted to join COPLINK, a database used to share criminal records generated by all agencies with access or access/input to the system. Twenty-nine Arizona law enforcement agencies currently participate in the COPLINK program, with an additional twenty-three anticipated to join next year. Due to financial constraints Avondale was unable to join the program.

DISCUSSION:

Arizona Homeland Security - Urban Area Security Initiative has determined that information sharing between agencies is a priority for the security of the state. Maricopa County submitted a grant application that would allow pass-through funding to support COPLINK participants. This funding can be used for equipment and services related to the COPLINK program. In order to join COPLINK the Avondale Police Department will need to purchase additional software through the Records Management System provided by Spillman Technologies. This upgrade will cost \$12,543 as quoted by Spillman Technologies. The cost of this upgrade will be paid via the UASI grant in full. The only cost to the City of Avondale will be the annual user fee of \$100 per user and the annual maintenance fee of \$278, both of which will be absorbed by the police department's budget.

BUDGETARY IMPACT:

This grant is not supplanting because Avondale does not have the item in the budget for 2010-2011. The grant will pay for equipment and software services. Ongoing maintenance will be absorbed by the Police Department Budget line item: 101-6110-00-6310.

RECOMMENDATION:

Staff recommends that the City Council approve a resolution authorizing an intergovernmental agreement with the Maricopa County Sheriff's Office for the purpose of accepting grant funding from the Arizona Department of Homeland Security in the amount of \$12,543 to purchase COPLINK equipment and services related to law enforcement information sharing and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

 [Resolution 2945-1210](#)

RESOLUTION NO. 2945-1210

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY RELATING TO THE URBAN AREA SECURITY INITIATIVE GRANT PROGRAM.

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

SECTION 1. The Intergovernmental Agreement with Maricopa County relating to the Urban Area Security Initiative Grant Program (the "Agreement") is hereby approved in substantially the form attached hereto as Exhibit A.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2945-1210

(Agreement)

See following pages.

**Intergovernmental Agreement
between Maricopa County
and the City of Avondale**

**09-AZDOHS-HSGP
Grant Number 555811-01
CFDA Number 97.067
(UASI)**

C-50-11-_____

This agreement is made by and between the Maricopa County Board of Supervisors, acting on behalf of the Maricopa County Sheriff's Office (MCSO), and the City of Avondale, an Arizona Municipal Corporation, on behalf of the Avondale Police Department (Agency).

Whereas, the parties are authorized to enter into this agreement pursuant to A.R.S. §11-952.

Whereas, the Maricopa County Sheriff's Office has been designated as the Subgrantee agency for the reimbursement of funds from the Urban Area Security Initiative (UASI) Grant Program of the Arizona Department of Homeland Security (AZDOHS).

Whereas, the parties agree:

1. This Agreement shall become effective October 1, 2010 and will continue through December 31, 2010, or the date upon which this 2009 AZDOHS grant ends, including extensions, whichever is later.
2. Either party requesting termination of this agreement must provide thirty (30) days written notice to the other party of its intent to terminate.
3. In the event this agreement is terminated as provided herein, the parties shall have no further obligation to one another other than for payment for services rendered prior to such termination.
4. Pursuant to A.R.S. § 38-511, the state, its political subdivisions or any department or agency of either may cancel this contract within three (3) years after its execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or created the contract on behalf of the state, its political subdivisions, or any of the departments or agencies of either is, at any time while the contract or any extension of contract is in effect, an employee or agent 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.
5. If any provision of this Agreement is held by a court of competent jurisdiction or applicable state or federal law and their implementing regulations to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

TERMS and CONDITIONS:

The Maricopa County Sheriff's Office agrees to the following:

1. MCSO will authorize the Agency to procure the following services for benefit of the Agency:

Complete Data Source Connection to the Phoenix PD Regional AzLink Node \$25,000
2. Total funds available to the Agency for reimbursement from the UASI Grant Program are not to exceed \$25,000. At its discretion, MCSO may adjust the amount available to the Agency to meet requirements of the UASI Grant Program. If MCSO changes the not to exceed amount, prompt written notice will be provided to the Agency.
3. MCSO will monitor activities of the subrecipient Agency as necessary to ensure that awards are used for authorized purposes in compliance with laws, regulations, and the provision of contracts or grant agreements, and that performance goals are achieved as stated in OMB Circular A-133, Subpart D 400 section d (3). MCSO may conduct monitoring visits during the term of the Agreement.

The Avondale Police Department agrees to the following:

1. To submit reimbursement requests only for the software and services specified above unless otherwise authorized in writing by MCSO.
2. To mail reimbursement requests to the Maricopa County Sheriff's Office, Technology Bureau, 301 S 4th Ave, Phoenix, Arizona 85003, within thirty (30) days of payment to the vendor. The request will include, at minimum, a copy of the Agency purchase order, an invoice detailing the items purchased, proof of payment of the invoice, and use tax paid to the State (if applicable).
3. To pay any and all ongoing maintenance or support charges for hardware, software and/or services procured for benefit of the Agency through the UASI Grant Program.
4. To comply with the financial and administrative requirements as set forth in the effective edition of the Office of Justice programs Financial Guide. Further, Agency agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. Once completed, a copy of the Agency's Single Audit Report for each applicable fiscal year during the term of the Agreement will be forwarded to Maricopa County Sheriff's Office, Business Services Division, 234 N Central Ave, Phoenix, AZ 85004.

Both parties agree to the following:

1. That program funds shall be used to support and enhance activities of the AzLink network. These funds will not be used to supplant State and/or local funds that would otherwise be made available for such purposes.
2. To complete all activities related this Agreement within the time period prescribed in the AZDOHS UASI grant. Written requests for an extension will include information and documentation to support the amendment request and a proposed schedule for completion.
3. The CFDA number associated with this funding is 97.067, Arizona Department of Homeland Security, Urban Area Security Initiative. This information and the amount expended, if any, should be referenced

and clearly designated as “Passed through Maricopa County Sheriff’s Office” on the “Schedule of Expenditures of Federal Awards” included with the City’s Annual Single Audit Reporting package.

4. To retain all financial records and other documents relevant to this agreement for a period of not less than five (5) years from the end of this Agreement, in compliance with A.R.S. § 35-214.
5. To comply with the applicable sections of all state and federal laws related to non-discrimination, equal access to employment opportunities, undue influence, and conflicts of interest under A.R.S. § 38-511.
6. Notices shall be sent in writing to designated personnel for each party as follows:

If intended for the Maricopa County Sheriff's Office:

Mr. Bob Rampy, Commander/TLO Intel Analyst
Telecommunications Technology
Maricopa County Sheriff's Office
102 W Madison
Phoenix, AZ 85003

If intended for the Avondale Police Department:

Ms. Jessie Phillips, Crime Analyst
Avondale Police Dept.
11485 W Civic Ctr Dr
Avondale, AZ 85323

7. Other:
 - A. Indemnification: To the extent permitted by law, each party to this Agreement shall indemnify, defend and hold the other parties, their officers, departments, employees and agents, harmless from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature which result from any act or omission of the indemnifying party, its agents, employees or anyone acting under its direction or control, whether intentional or negligent.
 - B. Certification Regarding Debarment, Suspension Ineligibility and Voluntary Exclusion: The undersigned by signing and submitting this Agreement has the authority to certify the City to the terms, representations and/or warrants of this Certification. The City defined as the primary participant in accordance with 28 CFR Part 66, certifies to the best of its knowledge and belief that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
 - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) are not presently indicted or for otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

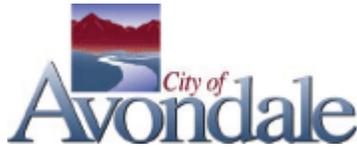
IN ACCORDANCE WITH A.R.S. §11-952 THIS CONTRACT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

Avondale City Attorney

Attorney for Maricopa County

BY: _____
City Attorney Date

BY: _____
Office of Special Litigation Services Date



CITY COUNCIL REPORT

SUBJECT:

Ordinance 1435-1210 - Accepting Dedication of Real Property for Use as Public Right-of-Way

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Sue McDermott, P.E., Director of Development Services and Engineering, 623-333-4211

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt an ordinance accepting the conveyance of certain real property as right-of-way along the west side of 107th Avenue from Van Buren Street to a point approximately one-half mile south and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

On July 6, 2004, City Council approved the final plat of Roosevelt Park Unit 1. That plat identifies a strip of right-of-way in 107th Avenue along the east boundary to be dedicated at a later date. The delay was to accommodate grant of easements to Salt River Project for relocation and construction of irrigation facilities. Touse Homes, Inc., doing business as Engle Homes, has offered to dedicate this strip of right-of-way to complete this requirement of the underlying development agreement and plat.

DISCUSSION:

The proposed public right-of-way consists of an approximate 2,360 foot long 17 foot wide strip parallel with and 33 feet west of the centerline of 107th Avenue. Roadway improvements including sidewalk and landscaping are completed within this 0.92 acre right-of-way parcel. Staff has reviewed and approved the legal description.

BUDGETARY IMPACT:

Funding in the amount of \$1,250.93 for property taxes due on this parcel is available in CIP Street Fund Line Item 304-1274-00-8420.

RECOMMENDATION:

Staff recommends that the City Council adopt an ordinance accepting the conveyance of certain real property as right-of-way along the west side of 107th Avenue from Van Buren Street to a point approximately one-half mile south and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

[📎 Ordinance 1435-1210](#)

ORDINANCE NO. 1435-1210

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ACCEPTING THE DEDICATION OF REAL PROPERTY FOR USE AS PUBLIC RIGHT-OF-WAY.

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

SECTION 1. A ± 0.919 acre parcel of real property, generally located south of Van Buren Street, west of 107th Avenue, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby accepted by the City of Avondale from Tousa Homes, Inc. and Morrison Homes, Inc., for use as public right-of-way.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1435-1210

[Legal Description and Map of Right-of-Way]

See following pages.

**Right-of-WAY
Southwest corner
107th Avenue & Van Buren Street
APN 101-01-007-D**

Legal Description

That portion of land as depicted as "Right-of-Way to be dedicated at later date" as shown on the Final Plat for "Roosevelt Park Unit 1" in Book 716, Page 47, Records of Maricopa County, Arizona situated within the Northeast quarter of Section 7, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Tract "A" 107th Avenue Right-of-Way

COMMENCING at the Northeast corner of said Section 7, from which the East quarter corner thereof bears South 00 degrees 25 minutes 41 seconds East a distance of 2631.66 feet;

Thence along the north line of said Northeast quarter, South 88 degrees 52 minutes 29 seconds West a distance of 33.00 feet to a line that is parallel with and 33.00 west of the east line of said Northeast quarter;

Thence along said parallel line, South 00 degrees 25 minutes 41 seconds East a distance of 105.00 feet to the **POINT OF BEGINNING** of Tract "A";

Thence continuing along said parallel line, South 00 degrees 25 minutes 41 seconds East a distance of 2341.89 feet to the south line of said Final Plat for "Roosevelt Park Unit 1", also being the north line of the Final Plat of "Roy's Place", as recorded in Book 888, Page 47, Records of Maricopa County, Arizona;

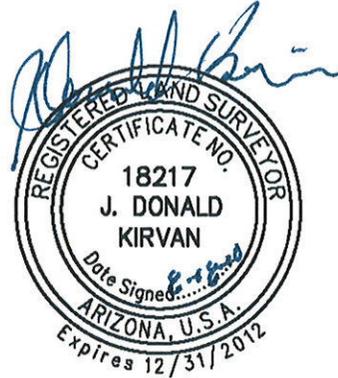
Thence along last said common lines, South 86 degrees 44 minutes 56 seconds West a distance of 17.02 feet to a line that is parallel with and 50.00 feet west of the east line of said Northeast quarter;

Thence along last said parallel line, North 00 degrees 25 minutes 41 seconds West a distance of 2370.86 feet to the south line of the portion of land as described in Document no. 1985-0222422, Records of Maricopa County, Arizona;

Thence along said south line, South 31 degrees 34 minutes 32 seconds East a distance of 32.87 feet to the **POINT OF BEGINNING**.

The above described parcel contains 40,058 Square Feet (0.9196 acres) more or less.

Prepared by: HilgartWilson
2390 East Camelback Road
Suite 403
Phoenix, AZ
Job No. 1081
August 18, 2010



NORTHEAST CORNER SECTION 7
TOWNSHIP 1 NORTH, RANGE 1 EAST
GILA AND SALT RIVER MERIDIAN,
MARICOPA COUNTY, ARIZONA

NORTH QUARTER CORNER
SECTION 7



65' R/W PER BOOK
716, PAGE 47, MCR

DOCUMENT NO.
1985-222422, MCR

P.O.B.
TRACT
"A"

NOTE: THIS EXHIBIT MAP
IS BASED UPON RECORD
INFORMATION AS SHOWN

FINAL PLAT FOR
"ROOSEVELT PARK UNIT 1"
BOOK 716, PAGE 47, MCR



RIGHT-OF-WAY
TRACT "A"
APN 101-01-007-D
AREA: 40,058 S.F.

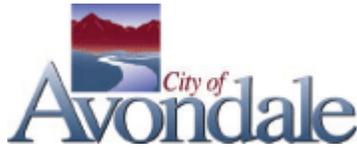


FINAL PLAT
"ROY'S PLACE"
BOOK 888, PAGE 47, MCR



EAST QUARTER CORNER
SECTION 7

PROJ.#:	1081	ROOSEVELT PARK VAN BUREN STREET & 107TH AVENUE AVONDALE, ARIZONA	hilgartwilson ENGINEERS • PLANNERS • SURVEYORS 2390 E. CAMELBACK RD., STE. 403 PHOENIX ARIZONA PH 602-490-0535 FAX 602-325-0161
DATE:	08/18/10		
SCALE:	AS SHOWN	RIGHT-OF-WAY EXHIBIT MAP	
DRAWN BY:	JDL		
CHECKED BY:	JDK		



CITY COUNCIL REPORT

SUBJECT:

Ordinance 1433-1210 – Accepting the Dedication of Real Property for use as Public Right-of-Way for the Hill Drive Improvement Project

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Sue McDermott, P.E., Director of Development Services & Engineering, 623-333-4211

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt an ordinance accepting the dedication of real property for use as public right-of-way for the Hill Drive Improvement Project and authorize the Mayor or City Manager and City Clerk to execute the appropriate documentation.

BACKGROUND:

The City is currently constructing roadway, water, and sewer improvements within the Hill Drive alignment (see attached vicinity map). This project extends Hill Drive from the 4th Street alignment to 5th Street.

DISCUSSION:

The dedication of right-of-way from Templo Nuevo Vision is necessary to accommodate the new curb return ramp at the intersection of 5th Street and Hill Drive. The existing driveway to the church will be too close to the intersection and will be relocated onto Hill Drive.

BUDGETARY IMPACT:

The proposed acceptance of the right-of-way will have no budgetary impact on the City.

RECOMMENDATION:

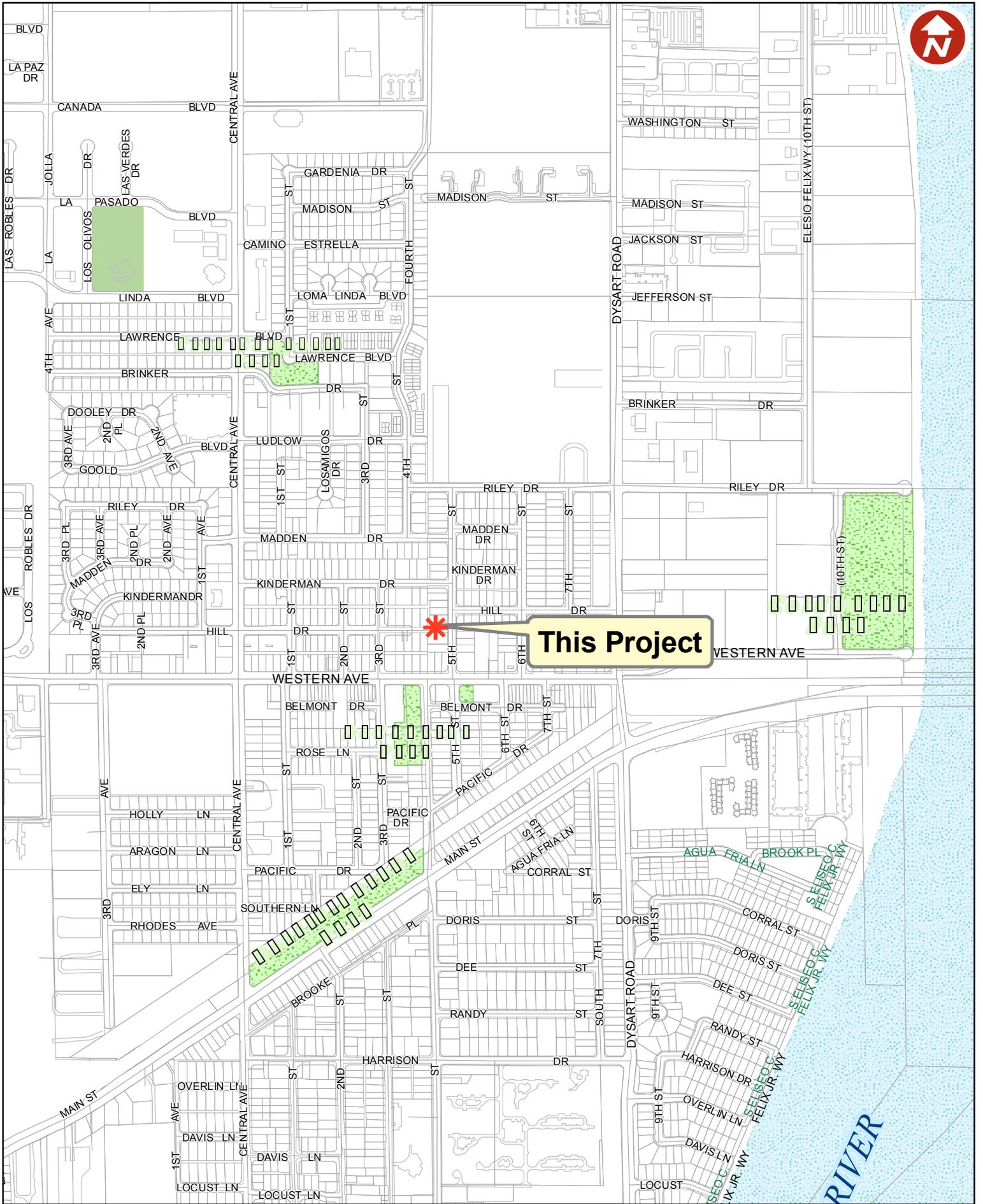
Staff recommends that the City Council adopt an ordinance accepting the dedication of real property for use as public right-of-way for the Hill Drive Improvement Project and authorize the Mayor or City Manager and City Clerk to execute the appropriate documentation.

ATTACHMENTS:

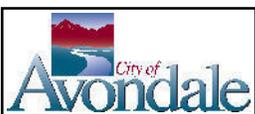
Click to download

[☐ Vicinity Map](#)

[☐ Ordinance](#)



This Project



Prepared February 2009
Avondale GIS/Water Resources

Hill Street Extension Project

ORDINANCE NO. 1433-1210

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ACCEPTING THE DEDICATION OF REAL PROPERTY FOR USE AS PUBLIC RIGHT-OF-WAY.

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

SECTION 1. That a \pm 0.002 acre parcel of real property, generally located south of Hill Drive, west of 5th Street, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby accepted by the City of Avondale from Templo Nueva Vision, an Arizona non-profit corporation, for use as public right-of-way.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1433-1210

[Legal Description and Map of Right-of-Way]

See following pages.

November 23, 2009
Proposed Right-of-Way located at
Southwest corner Hill Drive and 5th Street
Part APN 500-20-140

Right-of-Way
Legal Description

That part of the South half of Lot 20, Block 8, Irving Place, as recorded in Book 28 of Maps, Page 24, official records of Maricopa County, Arizona, being situated in the Southeast Quarter of Section 10, Township 1 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County, Arizona described as follows:

Commencing at the Southeast corner of said Section 10;

Thence North 89 degrees 44 minutes 13 seconds West, along the south line of said Section 10, being the monument line of Western Avenue as the basis of bearing, a distance of 1141.81 to the intersection of 5th Street;

Thence departing said Section line, North 0 degrees 1 minute 11 seconds East a distance of 316.26 feet along the monument line of 5th Street;

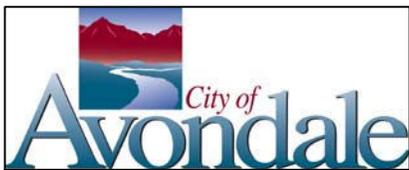
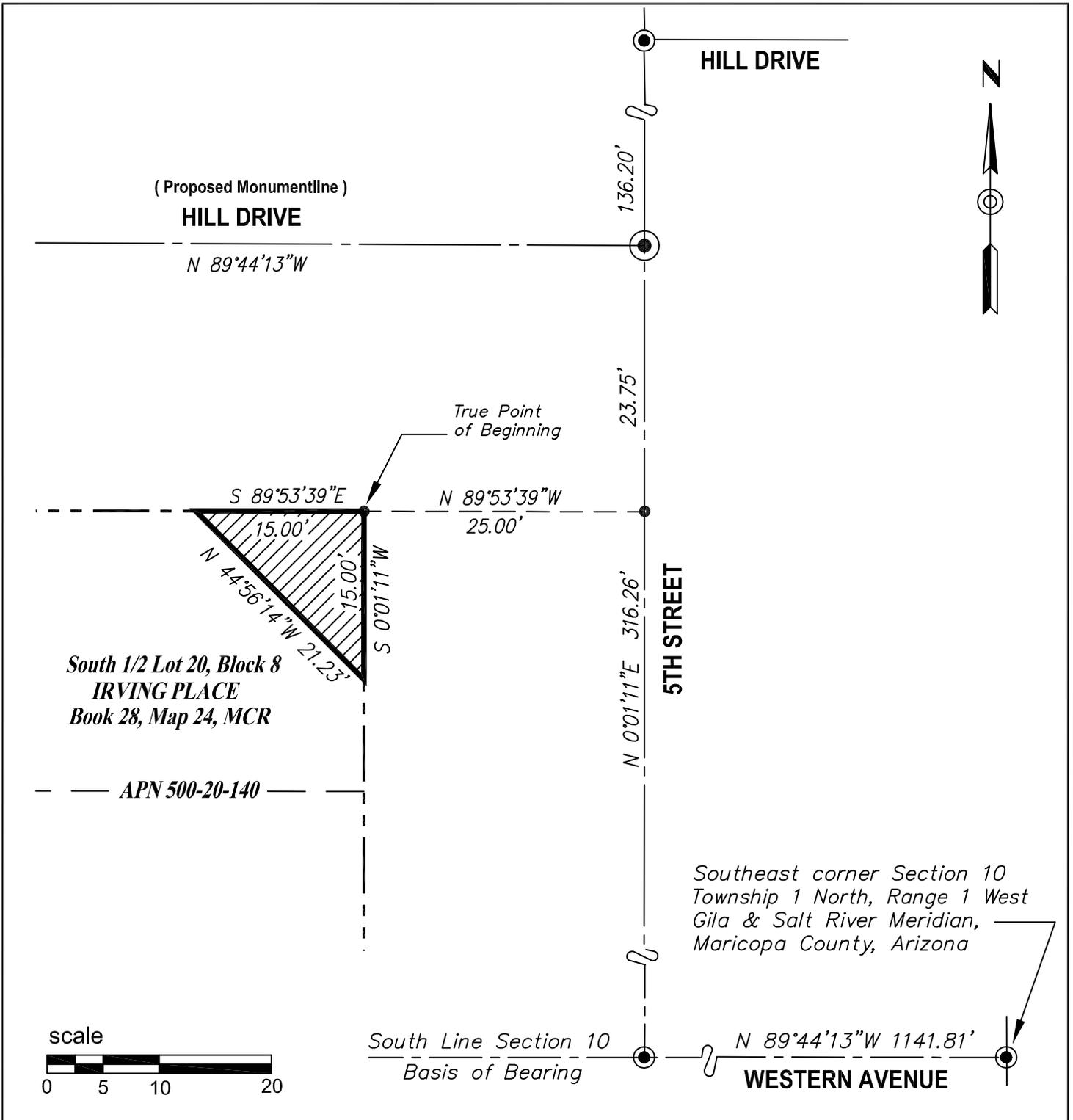
Thence, departing from said monument line, North 89 degrees 53 minutes 39 seconds West 25.00 feet, to the west right-of-way line of 5th Street, being the Northeast corner of the south half of said Lot 20 and the True Point of Beginning;

Thence South 0 degrees 1 minute 11 seconds West along said right-of-way line, a distance of 15.00 feet;

Thence departing from said right-of-way line, North 44 degrees 56 minutes 14 seconds West, a distance of 21.23 feet to the north line of the south half of said Lot 20;

Thence South 89 degrees 53 minutes 39 seconds East along said north line a distance of 15.00 feet to the True Point of Beginning;

Said Parcel contains 112.5 square feet area, more or less



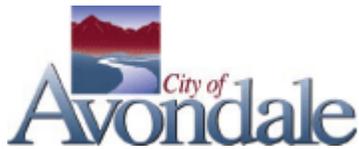
GIS-LAND SERVICES
Division of
WATER RESOURCES
DEPARTMENT

**RIGHT-OF-WAY
EXHIBIT MAP**

SW Corner Hill Drive & 5th Street
Part of Lot 20, Block 8, Irving Place,
Book 28, Page 24, MCR , APN 500-20-140

DATE: 11-22-2009
DSN: _____
DRN: LS
CHK: _____

PROJECT NAME
Hill Drive Improvements
PAGE
2 OF 2



CITY COUNCIL REPORT

SUBJECT:

Joint Facilities Use Agreement - Estrella Mountain
Community College for Programming at ASC

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Christopher Reams, Director of Parks, Recreation & Libraries (623) 333-2412

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement (IGA) with Estrella Mountain Community College to provide joint programming at the American Sports Center for leisure, sports, and academic purposes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

DISCUSSION:

The City of Avondale, through the Parks, Recreation, and Libraries Department, and Estrella Mountain Community College (EMCC) seek to enter into a joint programming agreement hosted at the American Sports Center in Avondale (ASC Avondale).

The joint programming will include sports leisure, and academic programs and activities. The programs will include a combination of for credit and non-credit classes as well as intramural programming.

Under the terms of the agreement the City will provide the facilities for the programming and EMCC will develop, implement, and manage all of the programs. EMCC will provide a minimum of three programs per semester. All programming will be jointly agreed upon prior to the program start date.

Programming implemented under this agreement may include, but is not limited to, the following types of programs:

- Intramural basketball
- Intramural volleyball
- Intramural soccer
- PED101 courses (introduction to sports courses)

BUDGETARY IMPACT:

The programs associated with this agreement will be 100% cost recoverable. There will be no expenses incurred by the City. All expenses, costs, and supplies associated with any program related to this agreement will be covered by the program fees collected from the participants, sponsorships, or grant funds.

RECOMMENDATION:

Staff recommends that the City Council approve a Joint Facilities Use Agreement with Estrella Mountain Community College to provide joint programming at the American Sports Center for leisure, sports, and academic purposes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

 [Joint Facility Use Agreement](#)

**FACILITY USE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT**

THIS FACILITY USE AGREEMENT (this “Agreement”) is entered into as of December 13, 2010, between the City of Avondale, an Arizona municipal corporation (the “City”), and the Maricopa County Community College District (the “District”), a political subdivision of the State of Arizona, on behalf of the Estrella Mountain Community College (“College”). The City and District are sometimes collectively referred to in this Agreement as the “Parties” and each individually as a “Party.”

RECITALS

A. The City is the owner of the American Sport Center located at 755 N. 114th Avenue, Avondale Arizona (the “Facility”).

B. The District desires to use portions of the Facility to offer College credit classes in soccer, basketball and volleyball (each a “Course” and collectively, the “Courses”) to its students (“Students”).

C. The Parties desire to enter into this Agreement to set forth the terms by which the District may operate the Courses within the Facility.

AGREEMENT

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

1. District Obligations. The District agrees to:

1.1 Supervision. Supervise the enrollment for, and the operation of, each of the Courses and to employ Course support staff who shall be responsible for overseeing the operation each of the Courses and for supervising the Student in each of the Courses.

1.2 Minimum Courses. Offer a minimum of three Courses at the Facility during each year of this Agreement.

1.3 Compensation Payment. Promptly pay the City the compensation as set forth in Section 4 of this Agreement.

1.4 Facility Condition. Ensure that the portion of the Facility that the District uses remains neat and orderly after each use. The Parties acknowledge that the District is

permitted to use a portion of the Facility only for the operation of the Courses and for no other purpose. The Parties agree that the maintenance of such portion of the Facility after normal Course usage shall constitute routine maintenance for which the City, or its contractor, is solely responsible. The District agrees to reimburse the City for the cost of any maintenance of the Facility necessitated by the District's use of the Facility outside of normal Course usage.

1.5 No Improvements. Refrain from making any improvements to the Facility.

2. City Obligations. The City agrees to:

2.1 Facility Availability. Make the portions of the Facility necessary for the Courses available to the District to operate those Courses on a schedule approved in advance by the City and the District.

2.2 Use of Facility. Ensure that personnel are available at the Facility during each Course session to ensure that the District is able to use the portion of the Facility for the operation of the Course.

3. Joint Obligations. The Parties agree to:

3.1 Coordination. Designate the following persons as coordinators for the District's use of the Facility:

FOR CITY:

Chris Reams
Director, Department of Parks,
Recreation and Library
11465 W Civic Center Drive #100
Avondale AZ 85323
Phone: 623-333-2400
creams@avondale.org

FOR COLLEGE/DISTRICT:

Lyle Bartelt
Manager, Fitness and Wellness
Estrella Mountain Community
College
3000 North Dysart Road
Avondale, AZ 85392
Phone: 623-935-8405
lyle.bartelt@emcmail.maricopa.edu

The coordinators shall meet as needed, but no less than once each District academic semester, to discuss issues and establish a schedule for the District's future use of portions of the Facility.

3.2 Conflict Resolution. Work with each other in good faith to resolve any conflicts that may arise concerning the Courses. In the event that the representatives specified in Section 3.1 are unable to reach a consensus regarding a dispute, they may refer the dispute to the College Vice President for Administrative Services and the Assistant City Manager. In all cases of disputes or defaults under this Agreement, the Parties will first attempt to resolve differences in good faith between themselves. With the approval of their respective governing boards, the

Parties may agree to resolve a dispute through an alternative dispute resolution method, with each bearing one-half of the cost.

4. Compensation. Within 45 days after the commencement of each Course, the District shall pay the City \$40.00 for each Student still enrolled in each Course after that 45-day period. With payment, the District shall provide to the City in writing the number of Students enrolled in each Course after the 45th day. The District shall not be entitled to any reimbursement from the City in the event that the Course is cancelled prior to its completion.

5. Expenses.

5.1 Covered Expenses. Except as provided in Sections 1.4 and 5.2, the City shall be responsible for paying all normal expenses associated with the operation of the Facility including, utilities and routine maintenance expenses.

5.2 Other Expenses. The District shall bear all expenses, costs, and supplies associated with offering the Courses. Additionally, the District agrees that the City may repair and file a claim with the District for any repairs caused by the negligence or intentional actions of the District or its employees or Students. In order to appropriately consider a claim, the City understands that the claim must meet statutory requirements to comply with the law and the District's insurance carrier's mandates. The District will fairly consider the claim, investigate it in cooperation with the City, and, if undisputed, pay it promptly after completely its investigation.

6. Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until December 31, 2011. The Parties may renew this Agreement for a maximum of three (3) one-year terms if, at least thirty (30) days prior to the end of the then-current term of this Agreement, the Parties agree in writing to renew the Agreement.

7. Indemnification. Each Party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury or any person (including death) or property damage, but only to the extent that such claims which resulting 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, subcontractors or volunteers.

8. Insurance.

8.1 General.

a. Insurer Qualifications. Each Party shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above. Failure to maintain insurance as specified herein may result in termination of this Agreement.

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

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

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

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

f. Evidence of Insurance. At the signing of this Agreement, the District will provide the City with suitable evidence of insurance in the form of certificates of insurance, issued by the District's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. In the event any insurance policy required by this Agreement is written on a "claims made" basis, coverage shall extend for two years past completion of the term of this Agreement and as evidenced by annual certificates of insurance. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be the District's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. The insurance certificate shall contain language stating that the insurance carrier will endeavor to provide the City with 30-day advanced written notice of cancellation or material change of the policy. In any event, the District shall be obligated to provide the City with 30-day advanced written notice of cancellation or material change of the policy.

8.2 Required Insurance Coverage.

a. Commercial General Liability. The District 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. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured.

b. Vehicle Liability. The District shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on the District's owned, hired and non-owned vehicles assigned to or used in the performance of the District's work or services under this Agreement. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured. If any excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

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

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

10. Termination; Cancellation.

10.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by the District of written notice by the City. Any termination shall not be effective until the Courses being offered at the Facility at the time that the City gives the notice have ended.

10.2 For Cause. This Agreement may be terminated by either Party upon thirty (30) days' written notice should the other Party fail to substantially perform in accordance with this Agreement's terms, through no fault of the Party initiating the termination. The defaulting Party shall be allowed a period of 30 days, from receipt of a written notice of default from the non-defaulting Party, within which to cure the default. If the defaulting Party is diligently pursuing a cure of the default during the 30-day period but cannot complete the cure within that time, the time to cure shall be extended for another 30-day period. In the event the default remains uncured after the 30 day period, as extended if applicable, with the defaulting Party either failing to diligently pursue a cure or disputing the written notice of default, the non-defaulting Party may notify, in

writing, the defaulting Party of its intent to terminate this Lease. If the defaulting Party has failed to cure the default within the 30- or 60-day timeframe, the notice shall advise the defaulting Party of the date that termination is effective. If the default is disputed, the matter will be resolved according to the dispute resolution provisions of Section 3.2.

10.3 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511.

10.4 Gratuities. The City may, by written notice to the District, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the District or any agent or representative of the District to any officer, agent or employee of the City for the purpose of securing this Agreement.

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

11. Miscellaneous.

11.1 Independent Contractor. The District acknowledges and agrees that, while offering the Courses, the District is an independent contractor and not an employee or agent of the City. The District, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the District, its employees or subcontractors. The District is neither prohibited from entering into other contracts nor prohibited from furthering its purposes elsewhere. City and the District do not intend to nor will they combine business operations under this Agreement.

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

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

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

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

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

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

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

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

11.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by either Party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of a Party to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law,

or that Party's acceptance of services, shall not release the other Party from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the first Party to insist upon the strict performance of this Agreement.

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

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

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

With copy to: GUST ROSENFELD, P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Facsimile: (602) 254-4878
Attn: Andrew J. McGuire, Esq.

If to the District: Estrella Mountain Community College
3000 North Dysart Road
Avondale, AZ 85392
Facsimile: (623) 935-8403
Attn: Lyle Bartlet

With copy to: Maricopa County Community College District
Office of General Counsel
2411 West 14th Street
Tempe, Arizona 85281-6942
Facsimile: (480)731-8890
Attn: Ms. Margaret McConnell

or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (a) when delivered to the Party, (b) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (c) the following business day after being

given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (d) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

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

11.14 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the District certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the City determines that the District submitted a false certification, the City may impose remedies as provided by law including terminating this Agreement pursuant to subsection 10.2 above.

11.15 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to rent the Facility to others, except for those portions that the parties have designated for use for the Courses.

11.16 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.

11.17 Captions. Captions and section headings used herein are for convenience only and are not a part of the Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant to construing the Agreement.

11.18 Non-Discrimination. Both Parties agree to comply with all applicable provisions of state and federal laws and regulations, including the Americans with Disabilities Act and Executive Order 99-4, which is incorporated herein by reference, mandating non-discrimination and requiring that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunity.

IN WITNESS WHEREOF, the Parties hereto have executed this Facility Use Agreement on the date and year first set forth above.

“City”

CITY OF AVONDALE, an Arizona municipal corporation

“District”

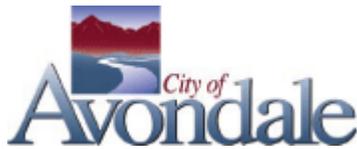
MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT, a political subdivision of the State of Arizona

Charles P. McClendon, City Manager

By: _____
Margaret E. McConnell
Assistant General Counsel

ATTEST:

Carmen Martinez, City Clerk



DEVELOPMENT SERVICES

SUBJECT:

Public Hearing, Resolution 2943-1210 and Ordinance 1434-1210 – Zoning Ordinance Text Amendment to Section 5, Special Districts

MEETING DATE:

December 13, 2010

TO: Mayor and Council

FROM: Sue McDermott, Development Services and Engineering Department Director, (623) 333-4211

THROUGH: Charlie McClendon, City Manager, (623) 333-1015

REQUEST: Approval of a comprehensive Text Amendment to the Zoning Ordinance Section 5, Special Districts (formerly "City Center District"), amending the City Center Zoning District (CCD) and creating the Major Sports & Entertainment Zoning District (MSED).

LOCATION: Citywide

APPLICANT: City Council

BACKGROUND:

The City Council initiated this application on August 9th, directing staff to create a new zoning district designed to allow land uses which can take advantage of nearby major sports and entertainment facilities. The proposed language is designed to be utilized by any existing and/or future large-scale sports and/or entertainment venues in the City. Creation of a new district designed for use on properties containing large-scale sports and entertainment venues will complement the overall Zoning Ordinance update and facilitate economic development in proximity to large-scale venues.

Stadiums, arenas, concert venues, and other large-scale sports and entertainment venues are major economic generators and destinations for both regional and national visitors. The positive economic impacts of these facilities on a City can be extended further if properties in proximity to these large-scale venues are developed with uses that serve to expand upon the use occurring at the venue or that enhance the entertainment experience for patrons attending events at the venue. A special Zoning District designed to accommodate large-scale sports and entertainment venues and adjacent, related development was determined to be needed to optimize the potential of any such development in Avondale.

With the exception of the Planned Area Development (PAD) District, Avondale's Zoning Ordinance does not currently contain a Zoning District designed to accommodate the unique mix of uses and varied development standards required for successful stadium area development. The PAD District, however, is not ideal for stadium-area development primarily because it prescribes a very rigid, structured development process. For example, in a PAD general development plan, a developer must identify specific sub-areas within the overall development for the mix of uses which are allowed. In the case of stadium areas, a more market driven approach to determining which mix of uses will be most successful is desired. Additionally, PADs expire three years from the date of zoning approval. Stadium area development typically occurs over a long time period that would benefit from having no zoning expirations.

Avondale currently has one major sports and entertainment venue: Phoenix International Raceway (PIR). For several years, PIR has expressed interest in upgrading the existing track facilities, utilizing the facilities on a more regular basis, and developing currently undeveloped adjacent properties with uses designed to take advantage of the close proximity to the racetrack. Such uses envisioned include: Commercial uses such as restaurants and entertainment venues, hotels/resorts, as well as, racing-related light industrial facilities, such as those used for the research, development, and testing of racing vehicles. It is important to note that a General Plan Amendment to the PIR property will be required in order to accommodate a rezoning of the property to the new district. The current designation of the PIR property as "Employment" cannot accommodate mixed use or commercial development.

Staff is proposing to incorporate the new Major Sports & Entertainment District (MSED) into Zoning Ordinance Section Five, presently titled "City Center District". As part of the proposed amendment, the section will be renamed "Special Districts" and contain the regulations for both the City Center District (CCD) and Major Sports and Entertainment District (MSED). Additionally, as part of this request, a minor amendment to allow farming as a permitted use subject to conditions in the CCD is proposed. Additional information on this proposed change can be found in the "Details of Request" section of this staff summary report, below.

SUMMARY OF REQUEST:

1. The proposed amendment (Exhibit A) changes the title of Zoning Ordinance Section 5 from "City Center District" to "Special Districts". All existing City Center regulations and requirements contained within Section 5 will remain in this section; however, a renumbering is required in order to allow for the Major Sports and Entertainment District (MSED) regulations to be added to this section. For example, the City Center District purpose statement is currently Section 501. Upon reorganization of this section, the City Center District purpose statement will be Section 501.A. 2. The only amendment to the City Center District (CCD) is to allow farming in all City Center Sub-Districts subject to conditions for up to five years after a property is rezoned to CCD. Allowed farming will be limited to the cultivation and harvesting of crops; no agricultural uses which utilize livestock (i.e. dairy farming), plant nurseries, or greenhouses are allowed under the proposal. Furthermore, it is specified that farming and agricultural uses legally occurring on properties prior to rezoning to CCD are not subject to the regulations of this provision. A Conditional Use Permit to extend the agricultural operations beyond five years will be required. This provision gives City Center property owners a relatively inexpensive interim use for their property and encourages rezoning to CCD before development is expected to occur.

3. The proposed amendment creates a new zoning district titled "Major Sports and Entertainment District (MSED)", Zoning Ordinance Section 502, beginning on page 10 of Exhibit A. The new District contains the thirteen subsections listed below. A description of each subsection can be found further into this report.

Subsection 502.A Purpose

Subsection 502.B Applicability

Subsection 502.C Permitted Uses

Subsection 502.D Uses Permitted With Conditions

Subsection 502.E Uses Permitted Subject to a Conditional Use Permit

Subsection 502.F Accessory Uses

Subsection 502.G Development Standards

Subsection 502.H Parking

Subsection 502.I Site Lighting

Subsection 502.J Architectural and Design Standards

Subsection 502.K Landscaping, Walls, and Fences

Subsection 502.L Signs

Subsection 502.M Definitions

4. **Subsection 502.A, Purpose**, specifies that the MSED is designed to accommodate the unique demands and impacts of (1) facilities used to conduct major sports and/or entertainment events and (2) mixed use and/or destination entertainment developments related to and operated in conjunction with a major sports/entertainment venue. The purpose statement also recognizes the need for deviation from traditional development standards in many instances in order to accommodate these unique uses.

5. **Subsection 502.B, Applicability**, defines which properties the MSED can be applied to. Specifically, a property could be zoned MSED if it contains or directly abuts an existing or planned major sports and entertainment venue. Non-abutting properties within one-quarter mile of an MSED zoned parcel would also be eligible; non-abutting parcels over one-quarter mile from an MSED zoned parcel could be zoned to MSED for the purposes of shuttled event parking only.

This subsection also establishes the requirement for a Conceptual Development Plan (CDP) and a view corridor study to be submitted in conjunction with a rezoning request. The CDP will serve as a general guide to development and will approximate the planned mix of uses for the overall site being zoned. In order to maintain flexibility, revisions to the CDP will be approved administratively if they are in conformance with the purpose and intent of the MSED. The view corridor study will evaluate the height of a venue from multiple points (e.g. building elevations) from multiple views (e.g. perspectives), no more than five miles away to ensure that stadiums or other large scale sports and entertainment venues up to 230' in height do not have significant negative effects on the City's scenic view corridors.

6. **Subsection 502.C, Permitted Uses**, lists the land uses which will be allowed in the Major Sports and Entertainment District. These uses include, but are not limited to:

- Stadiums, racetracks, arenas, concert pavilions, amphitheaters, performing arts centers, and other large-scale sports and entertainment venues.
- Dining/entertainment/cultural uses including amusement parks, museums, aquariums, movie theaters, bars, and restaurants.
- Retail sales.
- Hospitality uses, including hotels, resorts, and conference centers with associated facilities such as spas and golf courses.
- Multi-family residential development when integrated into the large-scale sports and entertainment venue. Standalone multi-family is not permitted.
- Professional, medical, and service uses, including offices, banks, business support centers, health clubs, hospitals, and emergency care.
- Light-industrial and/or educational facilities related to the major sports and entertainment venue. For example, a facility where advancements in racecar technology are researched, designed, and/or built near an auto racing track, or an auto racing school.
- Ecotourism and educational facilities and green initiatives such as photovoltaic panels integrated into buildings or structures.
- Event-related recreational vehicle and mobile camper parking/camping, and non-event related RV and mobile camper parking/camping conducted entirely within the major sports entertainment venue in conjunction with a venue-sponsored program and provided that the campers are limited to short-term stays that do not exceed 14 consecutive days.
- Agricultural uses excluding dairy farms, limited to a period of three years after a property is zoned MSED unless a CUP is approved to extend the agricultural use.

7. **Subsection 502.D, Uses Permitted with Conditions**, lists the land uses which are permitted in the MSED subject to adhering to a set of listed conditions. Those uses are:

- Drive-thru facilities for allowed uses. The conditions for drive-thru uses are listed in Zoning Ordinance Section 304.G and include requirements for window orientation, canopy design, etc.
- Pet boarding and day care facilities subject to the conditions listed in Zoning Ordinance Sections 304.K and 304.L. The conditions are designed so that the impacts of animals on adjacent businesses or residents are minimized.
- Permanent towers and antennae subject to the provisions of Zoning Ordinance Section 708. Section 708 determines the design requirements for communications towers. Per Section 708, all new towers greater than 35' in height will require a Conditional Use Permit; communications equipment mounted on existing or planned vertical elements are approved administratively in most instances.

8.Subsection 502.E, Uses Permitted Subject to a Conditional Use Permit, lists the land uses for which City Council approval of a Conditional Use Permit (CUP) will be required. Those uses include:

- Standalone green initiatives, such as solar farms.
- Child care centers.
- Pharmacies without drive-thrus.
- Non-event related recreational vehicle and mobile camper parking and camping, and tent camping not located within the venue.

9.Subsection 502.F, Accessory Uses, lists the land uses which are permitted as accessories (or subordinate uses) to the permitted uses in the MSED. These uses include:

- Outdoor sales of food and merchandise on event days.
- Outdoor sales of food and merchandise from kiosks on non-event days when located in a mixed-use, pedestrian oriented development.
- Temporary towers and antennae, such as temporary wireless service towers.
- Temporary family center facilities designed to accommodate event personnel, competitors, and their families.

10.Subsection 502.G, Development Standards, includes a table which establishes the standards to which development will be required to adhere, including minimum setbacks and maximum building heights. This subsection establishes one set of development standards for the major sports and entertainment venue and a second set of development standards for the other uses allowed in the district.

Development standards for the major sports and entertainment venue include a minimum site area of 160 acres, minimum street and front setbacks of 20 feet, and a maximum building height of 230 feet. Furthermore, buffer setbacks require buildings be located a minimum of 1 foot from any residential property line for each foot of building height. For example, a 200 foot arena would be required to be at least 200 feet from the nearest residential property line.

Development standards for all other uses are designed to encourage but not mandate pedestrian oriented development. For example, zero front or street side setback is required, however if development takes on a more suburban form, a minimum of twenty feet of setback from property line to parking area will be required. Maximum building heights for these uses will be limited to 40 feet, except that hotels, multi-family residential, and office uses could extend to 160 feet if oriented in a manner that protects scenic view corridors.

Applicants will be required to submit a view corridor study at the time of rezoning to illustrate that the building heights allowed in this district will not have a significant negative impact on properties located between 1 to 5 miles from the proposed facility. In the instance where it is determined that heights are excessive for a given location, the City Council will have the ability to deny applications to rezone to MSED.

11. Subsection 502.H, Parking, determines which City parking requirements will not apply to a large-scale sports/entertainment facilities. For instance, off-site privately owned parking facilities are prohibited by the Zoning Ordinance; for these facilities, off-site lots which function as “shuttle” lots may be required to accommodate patrons of the major sports and entertainment venue. Additionally, this Subsection exempts venues from maximum parking requirements, overnight RV parking requirements, minimum parking space size requirements, and certain parking lot screening/landscaping requirements. For all other uses, parking requirements listed in Zoning Ordinance Section 8, Parking, shall apply.

12. Subsection 502.I, Site Lighting, determines which City site lighting requirements will not apply to large-scale sports/entertainment facilities. For instance, the Zoning Ordinance limits the height of parking lot lighting to a maximum of 25 feet whereas lighting parking lot lighting for a venue in the MSED will be allowed up to 110 feet. Additionally, the Zoning Ordinance limits the use of large-scale recreational lighting after 11:00 PM; the proposed MSED does not limit the hours that event lighting may be used. For all other uses, site lighting requirements listed in Zoning Ordinance Section 707, Outdoor Lighting, shall apply.

13. Subsection 502.J, Architectural and Design Standards, establishes design guidelines for large-scale sports and entertainment venues as their size makes adherence to the requirements contained with the City's Design Manuals difficult. This section requires venues to be expressive of the primary activity occurring in the venue while also taking careful steps to complement the surrounding built and natural environments. Shaded areas, promotion of pedestrian connectivity, refuge areas, and quality design materials are required. For all other uses allowed in the MSED, adherence to the Design Manuals are required.

14. Subsection 502.K, Landscaping, Walls, and Fences, determines which City landscaping and screening requirements will not apply to large-scale sports and entertainment facilities. The proposed draft exempts venues from internal landscaping and screening requirements, including but not limited to landscaping within parking areas and directly adjacent to structures. Venues are not exempted from landscaping requirements for planting areas adjacent to public streets to ensure that the City's desired aesthetics are maintained from the public right-of-way. For all other uses, landscaping and screening requirements listed in Zoning Ordinance Section 12, Landscaping, Fences, and Walls, shall apply.

15. Subsection 502.L, Signs, allows developers within the MSED district the ability to propose signage in excess of City requirements subject to approval by the City Council. Due to the fact that venues are regional if not national destinations, additional signage beyond what is typically allowed in Avondale could be warranted. In addition to the amount of signage allowed, parcels within the MSED are exempt from several City requirements pertaining to the design of signs, including but not limited to:

- Signs will be allowed to extend above a building's parapet.
- Temporary signs will be allowed on the roofs of buildings.
- Pole signs may be allowed on a limited basis for directional purposes only.
- Several design requirements for signs will only apply to signs visible from public streets and rights-of-way.
- Vehicle signs - signs affixed to vehicles and parking for the purpose of display - will be permitted on event days only.
- Off-site signs advertising the major sports and entertainment venue can be proposed in the Comprehensive Sign Package. Off-site signs could be located on a parcel in any zoning district and may include freeway pylon signs.

16. Subsection 502.M, Definitions, defines three terms used throughout the proposed MSED text: “Event”, “Event Day”, and “Major Sports and Entertainment Venue”.

PARTICIPATION:

This item was initiated by the City Council at a work session meeting on August 9th, 2010 (Exhibit B).

A Neighborhood Meeting to discuss the proposed Major Sports and Entertainment District and other revisions to Zoning Ordinance Section 5 was held on November 1, 2010 at 6:00 p.m. in the Sonoran Conference Room at City Hall. The meeting was advertised in the October 15, 2010 edition of the West Valley View. Additional notice was provided via email to persons on the City's Zoning Ordinance notification list. Furthermore, two separate articles were run in the Arizona Republic describing the efforts of the City to create the MSED and announcing the date, time, and location of the neighborhood meeting. In addition to staff, five citizens attended the meeting (Exhibit C), were given drafts of the proposed amendment, and participated in a discussion of the general goals of the text amendment as well as some of the more specific details. Primary topics of discussion included design requirements, off-site advertising (billboards), and development standards (including minimum parcel size). Additionally, there was some discussion on why a new district was necessary and why the PAD could not be utilized instead. Following the meeting, staff received comments from one attendee (Exhibit D) and incorporated several suggestions contained within that letter.

The Planning Commission held a public hearing on this application on November 18, 2010. A notice of the Planning Commission meeting was published in the West Valley View on November 2, 2010. Persons on the City's Zoning Ordinance notification list were emailed a notice of the public hearing and a copy of the finalized draft prior on November 11, 2010. No additional comments were received prior to the publication of this report. Two persons representing PIR and International Speedway Corporation spoke in favor of the proposed text amendment at the Planning Commission meeting.

A notice of this City Council meeting was published in the West Valley View on November 23, 2010. Additionally, the proposed new Ordinance language is available on the City's website for review. No additional comments have been received.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on November 18, 2010 (Exhibit E), and voted 6-0 to, accept the findings and recommend approval of application PL-10-0073, a request to amend the City of Avondale Zoning Ordinance, Section 5, Special Districts, as shown in the revised Exhibit A, proposed Zoning Ordinance, Section 5, Special Districts, version 2.0, dated November 18, 2010, with the following two amendments: First add to Section 502.B.2 a view corridor study or analysis at multiple points, from multiple views, no more than five miles away. Second, remove from Section 502.F-1C the phrase "racing team members" and add the word "their" before "immediate family".

Subsequent to the Planning Commission meeting, staff revised the proposed text amendment in accordance with the Planning Commission's recommendation.

Vice Chairperson Cotera was excused from the meeting.

ANALYSIS:

The proposed amendment to the City Center District provides additional short-term flexibility for property owners within that area without sacrificing the future vision of the area.

The proposed amendment to the MSED District will create a flexible Zoning District ideal for use on properties containing major sports and entertainment venues. The MSED will allow for optimum levels of flexibility for mixed-use development on parcels abutting or in close proximity to the major sports and entertainment venue and provide an opportunity for vibrant destination areas to be created to capture additional tax revenues on and around days when events will be occurring. While a PAD Zoning District could be used in this capacity, it does not allow for the flexibility required by the City's existing major sports venue, PIR. The proposed MSED District provides the flexibility needed for long term planning while being careful to ensure that the City's expectations for

development are met or exceeded. As such, development and design standards have been tailored to meet the needs of large-scale venues with care taken to safeguard the City's aesthetic priorities, such as scenic corridors, high quality architecture, and lush streetscape landscaping.

Conclusion:

Staff recommends approval of the text amendment to Zoning Ordinance Section 5, Special Districts with the modifications recommended by the Planning Commission.

FINDINGS:

1. The proposed amendment meets the intent of the General Plan.
2. The proposed amendment meets the requirements and intent of the Zoning Ordinance.
3. The proposed amendment will enhance short-term flexibility for property owners in the City Center without affecting the long-term vision for the area.
4. The proposed amendment will provide the flexibility needed by developers of major sports and entertainment venues to enhance existing venues within the City and/or develop new venues.
5. The proposed amendment will result in development which meets or exceeds City expectations and which doesn't detract from the City's aesthetic priorities.

RECOMMENDATION:

The City Council should **APPROVE** Application PL-10-0073, a City Council initiative to amend Zoning Ordinance Section 5, *Special Districts*, with two modifications recommended by the Planning Commission.

PROPOSED MOTION:

1. I move that the City Council adopt the resolution declaring as a public record the document filed with the City Clerk entitled the "City of Avondale Special Districts Regulations, Amended and Restated December 13, 2010"
2. I move that the City Council adopt the ordinance amending the City of Avondale Zoning Ordinance, Section 5, City Center District and adopting the document known as the "City of Avondale Special Districts Regulations, Amended and Restated December 13, 2010"

ATTACHMENTS:

Click to download

- [Exhibit A - Text Amendment](#)
- [Exhibit B - Excerpt of City Council Meeting Minutes from August 9, 2010.](#)
- [Exhibit C - Neighborhood Meeting Sign-In Sheet from November 1, 2010.](#)
- [Exhibit D - Letter from Dan Streyle dated November 5, 2010.](#)
- [Exhibit E - Excerpt of Draft Planning Commission Meeting Minutes from November 18, 2010.](#)
- [Resolution 2943-1210](#)
- [Ordinance 1434-1210](#)

PROJECT MANAGER:

Ken Galica, Planner II, (623) 333-4019

**CITY OF AVONDALE
SPECIAL DISTRICTS REGULATIONS**

**Amended and Restated
December 13, 2010**

SECTION 5 SPECIAL DISTRICTS

501 CITY CENTER DISTRICT

A. Purpose

The Avondale City Center Specific Plan, as amended (the “CCSP”) was created to implement the City Council’s vision of creating a high-density, mixed use environment that will become a premier destination for shopping, dining, entertainment, employment and various types of residential uses for the area of Avondale located between the Avondale Civic Center and Interstate Highway 10, commonly referred to as the City Center. The City Center Zoning District (the “CCD”) is intended to complete the vision expressed in the CCSP by prescribing building form, site design and architectural standards for the City Center. The CCD consists of two components approved by the City Council: (A) a legislatively approved base zone, the boundaries of which are consistent with Figure 3-1 of the CCSP, containing the basic performance standards and regulations for the respective Sub-Districts shown on Figure 3-1 of the CCSP and (B) an administratively approved (by the City Council), individualized Development Plan that selects the land uses from those allowed in the base zone sub districts and organizes such uses into a form-based Development Plan specific to a site. Accordingly, the Sub-District categories set forth in Section 503 below are intended to directly relate to and implement the provisions set forth in Section 3.2 of the CCSP for the corresponding Sub-District category. The CCD is intended to be flexible to allow for a parcel of land to be entitled in one step by combining the Development Plan with the base zone approval, much like a typical PAD rezoning, or to allow for the base zone to precede the Development Plan.

B. Applicability

1. Only properties within the City Center boundary will be permitted to rezone to the CCD.
2. The development regulations related to each Sub-District and the boundaries thereof shall correspond to the descriptions of the Land Use Categories of the same name in Section 3.2 of the CCSP and the boundaries and locations of the Land Use Categories as shown on Figure 3-1 of the CCSP.

C. Sub-Districts

The CCD is divided into six Sub-Districts. Properties within each Sub-District shall comply with the Land Uses and Development Standards set forth in this section in accordance with the standards in the CCSP for each such Sub-District. The six Sub-Districts are described below:

1. Gateway Employment. The Gateway Employment (GE) Sub-District is designed to place primary land uses close to the freeway, to maximize opportunities for business exposure to the freeway and to ensure that residential uses are not

located within 600 feet of freeway traffic. Primary uses in Gateway Employment Sub-District include retail, office, and hotel. In this Sub-District, residential, industrial, manufacturing, and warehouse uses are not permitted. Uses may be served by surface and/or structured parking. Building heights shall not exceed 10 stories. However, a building may be built up to 16 stories with City Council approval as part of the Development Plan process. A variety of Mid-rise and high-rise office, pedestrian-oriented retail, large floor plate uses and big box uses are permitted in the Gateway Employment Sub-District, subject to an appropriate Development Plan.

2. Employment Mixed-Use. The Employment Mixed-Use (EMU) Sub-District is designed to emphasize employment uses, including retail, professional office, hotel, and personal service uses. Residential units may be built on upper floors throughout the Employment Mixed-Use Sub-District if built in conjunction with employment uses; provided, however, that residential units fronting on Park Avenue may be built on the ground floor. The minimum ratio is one square foot of employment use for every two square feet of residential development, except for those properties fronting Park Avenue which may be exclusively residential. The mix of uses may be provided horizontally or vertically, and may be distributed across multiple properties, subject to Development Plan approval. Residential units may be incorporated throughout the first floor when it can be shown that such units support and heighten the purpose of the district.

The Employment Mixed-Use Sub-District is intended to include mid-rise and high-rise buildings of three to ten stories, predominantly served by structured parking. For a development project containing multiple buildings, the minimum average height shall be two stories and the minimum floor area ratio shall be 0.5 at build out of all uses approved as part of the Development Plan, provided that the target floor area ratio should be 0.75 – 1.0. Building heights shall not exceed 10 stories. However, a building may be built up to 16 stories along Avondale Boulevard north of Van Buren Street with City Council approval as part of the Development Plan process.

3. Pedestrian Retail. The Pedestrian Retail (PR) Sub-District includes all properties with frontage along pedestrian retail streets, as shown on Figure 3-1 of the CCSP. The land uses on the ground floor of buildings in the Pedestrian Retail Sub-District shall be restricted to those types of active uses that create a lively street environment. Professional offices and residential uses are not permitted in these ground floor locations, but are permitted on upper floors; provided, however, that residential uses fronting Park Avenue are permitted on the ground floor.

The form of development shall be compact building footprints, with small street setbacks and wide sidewalks designed to facilitate pedestrian activity. Buildings with first floor restaurants shall include outdoor seating areas that do not conflict with pedestrian areas. For a development project containing multiple buildings, the minimum average height shall be two stories and the minimum floor area ratio shall be 0.5 at build out of all uses approved as part of the Development

Plan, provided that the target floor area ratio should be 0.75 – 1.0.

4. Neighborhood Commercial. The Neighborhood Commercial (NC) Sub-District is designed to allow for a suburban-type of development on the fringe of the City Center area, while still contributing to the intent of the look and feel of the City Center. Buildings along arterial streets shall conform to specific setbacks to provide the intended streetscape for the City Center area, while buildings at the interior of a site may have larger street setbacks. Uses allowed in the Neighborhood Commercial Sub-District are retail, restaurant, office, and personal service. Residential is appropriate on upper floors of multi-story buildings and may be approved as part of a development project containing multiple buildings.
5. Residential Mixed-Use. The Residential Mixed-Use (RMU) Sub-District is designed to provide a transition between the Employment Mixed Use areas and residential neighborhoods. While residential is the primary land use, small office, retail, and personal service uses may be located on the ground floor of multi-story buildings. Non-residential uses such as small office buildings or boutique hotels may be permitted. Such non-residential uses shall be compatible in scale with nearby residential development and shall not adversely impact the quiet enjoyment of residential uses. Parking shall be located underneath or behind the units. Residential uses shall be developed at a minimum of 15 units per acre, and a maximum of 45 units per acre. Building heights shall range from two to five stories.
6. Townhouse Residential. The Townhouse Residential (TR) Sub-District is designed to provide a transition between the Residential Mixed-Use Sub-District and neighboring single-family residential development. Townhouse residential units shall be attached units with separate individual entrances fronting a public street and private open space attached to the individual unit in the form of patios or balconies. Parking shall be either attached or located on the same lot. Townhouse residential development may include interlocking units, but may not include buildings with common stairways serving multiple units. The minimum density shall be 12 units per acre and the maximum density shall not exceed 20 units per acre. Building heights are two to three stories.

D. Administration

1. Establishment. CCD base zoning may be established on property within the City Center according to the procedures outlined in Section 109 of this Zoning Ordinance. In addition to the approved CCD base zoning, a City Council approved Development Plan is required prior to any application for a development permit within the City Center area.
 - a. Development Plans may be filed for all or part of the property zoned or to be zoned CCD. Development Plans shall be submitted in accordance with Section 106, Site Plan Review; provided, however that the Planning Commission shall review, and City Council shall review and approve, all

Development Plans for properties zoned CCD.

- b. The ordinance approving the rezoning of a property to CCD shall indicate, both by narrative text and a map, the location and boundaries of the Sub-Districts that are included in the area to be rezoned.
2. Amendment. The Zoning Administrator or designee shall determine whether a proposed amendment to an approved Development Plan is a Major or Minor Amendment. Major Amendments shall require City Council approval with a recommendation of the Planning Commission. Minor Amendments shall require administrative approval by the Zoning Administrator or designee only.
 - a. Major Amendment: Any one of the following shall be considered a Major Amendment of a Development Plan:
 - 1) A significant change in boundary lines of the development. Minor and technical adjustments to the boundary lines within the Development Plan are permitted without a Major Amendment so long as (i) the adjustments do not divide zoning Sub-Districts, (ii) the area affected by the boundary change does not exceed 15% of the total area subject to the Development Plan, (iii) the adjustments do not significantly alter the traffic or pedestrian circulation system for the Development Plan and (iv) in the reasonable opinion of the Zoning Administrator, the overall character of the Development Plan, if modified, will remain in substantial conformance with the CCSP and the Development Plan as originally approved. Any expansion or relocation of a boundary line not within the scope of this exception shall be considered a major amendment of the Development Plan. Such boundary line changes may also require an amendment to the CCSP prior to any City Council consideration of the change to the Development Plan.
 - 2) Any change that could have significant negative impact on uses adjoining the development.
 - 3) Any change that could have a significant impact on roadways adjacent or external to the development.
 - 4) Any change that could have a significant negative impact on the amount of parking required or provided by the development.
 - 5) Any change to a phasing plan that could have a significant negative impact on adjacent or surrounding developments.
 - b. Minor Amendment: All amendments to a Development Plan not determined by the Zoning Administrator to be Major Amendments

according to the criteria set forth in subsection (1) above shall be Minor Amendments.

E. Land Uses

Land uses for each Sub-District shall comply with the Land Use Matrix set forth below:

P = Permitted

C = Conditional Use

PC = Permitted with Conditions

FF = First Floor Only

A = Accessory

- = Not Allowed

LAND USE	City Center Sub-Districts					
	GE	EMU	PR	NC	RMU	TR
Amusement parks, outdoor	C	-	-	-	-	-
Antique Store	P	P	P	P	FF	-
Aquarium	C	-	-	-	-	-
Art gallery	P	P	P	P	FF	-
Art studio	P	P	P	P	FF	-
Automobile rental facility with no on-site storage	P	P	P	P	FF	-
Banks and financial institutions without drive-through, excluding non-chartered financial institutions	P	P	P	P	FF	-
Bar	PC	PC	P	-	-	-
Barber shop	P	P	P	P	FF	-
Beauty salon	P	P	P	P	FF	-
Bingo Hall	P	-	-	-	-	-
Bowling alley	P	-	-	-	-	-
Brewery, ancillary to a bar or restaurant	P	P	P	P	FF	-
Bus terminals	P	-	-	-	-	-
Business, technical, or vocational school	P	P	P	P	-	-
Caretakers quarters	A	A	A	A	-	-
Child care center	C	C	C	C	C	C
Cigar Bar or tobacco lounge	P	P	P	-	-	-
Clothing alteration, custom dressmaking or tailor shop	P	P	P	P	FF	-
College or university	P	P	P	P	PC	PC
Commercial sporting complexes	C	-	-	-	-	-
Concert facilities, outdoor	C	-	-	-	-	-
Consignment shops	P	P	P	P	-	-
Convention centers and exhibition halls	P	-	-	-	-	-
Dance studio	P	P	P	P	FF	-
Drive-through uses, including restaurants and financial institutions	P	PC	-	P	-	-
Dry cleaning and laundry establishment, pick-up and drop-off only	P	P	P	P	FF	-
Emergency medical care facility	P	P	P	P	FF	-
Employment agencies excluding day labor	P	P	P	P	FF	-
Farming	PC	PC	PC	PC	PC	PC
Funeral Home	P	-	-	-	-	-

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LAND USE	City Center Sub-Districts					
	GE	EMU	PR	NC	RMU	TR
Health and exercise center	P	P	P	P	FF	-
Hospitals	P	-	-	-	-	-
Hotel or motel	P	P	P	P	PC	PC
Ice skating rink, indoor	P	-	-	-	-	-
Indoor commercial recreation/entertainment uses not otherwise listed	P	P	P	P	-	-
Laboratory for bio-science, dental, medical and research & development	P	P	P	P	-	-
Libraries	P	P	P	P	FF	-
Liquor stores	C	C	C	C	-	-
Massage therapy (medical)	P	P	P	P	FF	-
Massage or day spa	P	P	P	P	FF	-
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	P	P	P	PC	-
Museum and cultural centers	P	P	P	P	FF	-
Movie theater, indoor	P	P	P	P	-	-
Music studio	P	P	P	P	FF	-
Nail salon	P	P	P	P	FF	-
Night Club	PC	PC	P	-	-	-
Outdoor Dining, ancillary to a restaurant	A	A	A	A	A	-
Parking Lot, surface	A	A	A	A	A	A
Parking Structure	A	A	A	A	A	A
Pet boarding and day care facility	PC	PC	PC	PC	-	-
Photographic developing and printing studio	P	P	P	P	FF	-
Places of worship	P	P	P	P	P	P
Pre-schools and similar uses	C	C	C	C	C	C
Professional offices	P	P	P	P	PC	-
Public uses	P	P	P	P	P	P
Public utility buildings, structures, uses, facilities and equipment	PC	PC	PC	PC	PC	PC
Real Estate office	P	P	P	P	FF	-
Reception centers	P	-	-	-	-	-
Residential	-	PC	PC	-	P	P
Resorts	P	P	-	-	-	-
Restaurants, without drive-thru	P	P	P	P	FF	-
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	P	P	P	P	FF	-
Roller rink, indoor	P	-	-	-	-	-
Sidewalk Café	P	P	P	P	FF	-
Social/private clubs	P	P	P	P	FF	-
Specialty retail, indoor, excluding liquor stores	P	P	P	P	FF	-

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LAND USE	City Center Sub-Districts					
	GE	EMU	PR	NC	RMU	TR
Specialty sales (e.g. used books or used records, excluding thrift stores and surplus stores)	P	P	P	P	FF	-
Specialty services	P	P	P	P	FF	-
Stadiums	C	-	-	-	-	-
Swimming club, outdoor	C	-	-	-	-	-
Tanning salon	P	P	P	P	FF	-
Telecommunication Tower	PC	PC	PC	PC	PC	PC
Theater, excluding movie theaters	P	P	P	P	-	-
Ticket and travel agency	P	P	P	P	FF	-
Veterinary hospital, offices and clinics, excluding animal boarding	PC	PC	PC	PC	-	-
Video arcade or game room	P	P	P	P	FF	-
Video Rental	P	P	P	P	FF	-
Wine Bar	P	P	P	P	FF	-
Zoo	C	-	-	-	-	-

Land uses listed in the land use matrix above as Permitted with Conditions are permitted by right only if the conditions listed below for the individual uses are met. Based on Development Plan review, staff may add additional conditions of approval deemed necessary to protect the health, safety and public welfare.

1. A college or university is allowed in all CCD Sub-Districts provided that, in RMU and TR Sub-Districts, colleges and universities shall only be permitted if the buildings (1) are in scale with nearby residential development and (2) do not adversely impact current or future residential uses.
2. Drive-through uses, including restaurants and financial institutions, are allowed in GE, NC and EMU Sub-Districts. However, in EMU Sub-Districts, stand-alone drive-through uses shall be prohibited; Drive-through uses in such EMU Sub-Districts shall only be permitted as part of multi-use buildings.
3. A hotel is allowed in all CCD Sub-Districts; provided, however, that in RMU and TR, hotels shall be limited to a maximum of 50 rooms and shall be constructed so that the buildings are in scale with nearby residential development and do not adversely impact current or future residential uses.
4. Medical, dental or health offices, clinics and laboratories, excluding plasma centers, are allowed in the RMU Sub-District; provided, however, that unless located entirely on the first floor of a mixed use building, medical office buildings shall be constructed so that the buildings are in scale with nearby residential development and do not adversely impact current or future residential uses.

5. A professional office is allowed in the RMU Sub-District; provided, however, that unless located entirely on the first floor of a mixed use building, professional office buildings shall be constructed so that the buildings are in scale with nearby residential development and do not adversely impact current or future residential uses.
6. Bars are allowed in the GE and EMU Sub-Districts; provided, however, that (1) the exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, other bar or night club, (2) closing time for dance floors or other accessory uses to a bar shall coincide with the closing time for the bar and (3) with respect to GE Sub-Districts only, exits and entrances to a bar shall not be located within three hundred (300) feet of a residential district.
7. Night clubs are allowed in the GE and EMU Sub-Districts; provided, however, that (a) the exterior building wall of a night club shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, bar or other night club, (2) closing time for dance floors or other accessory uses to a night club shall coincide with the closing time for the night club and (3) with respect to GE Sub-Districts only, exits and entrances to a night club shall not be located within three hundred (300) feet of a residential district.
8. Residential Uses are allowed in EMU and PR Sub-Districts; provided, however, that, except for residential uses fronting on Park Avenue, such residential uses are only permitted on the upper floors.
9. Farming is allowed in all CCD Sub-Districts for a period not to exceed five (5) years from the date of rezoning; provided, however, that farming is limited to the cultivation and harvesting of crops and that no agricultural uses which utilize livestock (i.e. dairy farming), plant nurseries, or greenhouses shall be allowed. Farming and agricultural uses legally occurring on the property prior to rezoning to CCD shall not be subject to this provision. After the initial time five (5) year time period has elapsed, such use may only continue under a Conditional Use Permit.

F. Development Guidelines

1. Properties within the Gateway Employment, Employment Mixed-Use, Residential Mixed-Use, and Townhouse Residential Sub-Districts shall comply with the Development Guidelines as listed in Table 5-1 of the CCSP. The Pedestrian Retail Sub-District shall comply with the Development Guidelines as listed for the Employment Mixed-Use Sub-District, except to the extent such guidelines are determined by the Zoning Administrator to be inapplicable.
2. Properties within the Neighborhood Commercial Sub-District shall comply with the Development Guidelines listed for the Gateway Employment Sub-District,

except as follows: (1) maximum building height: 5 stories; (2) setbacks on Van Buren Street: Minimum 20' to buildings, 30' to parking (maximum 40'); and (3) setbacks on Avondale Boulevard: Minimum 30' to building, 40' to parking (maximum 60').

G. Design Guidelines

Unless specifically modified herein, all CCD developments shall comply with the Design Guidelines listed in Section 5.4 of the CCSP and the Streetscape Design Guidelines listed in Section 4.2 of the CCSP. Any design issues not addressed in the CCSP or in this Zoning Ordinance shall be subject to the design guidelines listed in the Commercial/Industrial/Multi-Family Design Manual. While specific architectural themes, color palettes, and material palettes are not dictated by the CCSP or this Zoning Ordinance, individual buildings shall be designed to complement other buildings within a block or Sub-District.

H. Parking

Parking for each land use shall be provided by a combination of on-street parking, off-street surface parking and parking structures based on the following:

1. A parking demand analysis prepared by a qualified parking or traffic consultant, a licensed architect, or civil engineer shall be submitted with each Development Plan. The parking demand analysis, as approved by the Zoning Administrator or designee, shall determine the number of parking spaces required for each use within the Development Plan.
2. The parking demand analysis shall analyze the needs of every proposed use in the Development Plan, using the Required Parking Schedule in Section 8 of the Zoning Ordinance as a starting point.
 - a. Provided parking shall not exceed the 110% of the number listed in the Parking Schedule.
 - b. Provided parking for a single use may be up to 20% less than the amount required by the Parking Schedule based on the parking analysis.
3. The amount of required parking may be reduced by up to 50% where it can be determined that the peak requirements of the several occupancies occur at different times and where a shared parking operations plan, approved by the Zoning Administrator or designee, shows that this reduction in parking will not cause conflicts among nearby uses. Such a shared parking analysis may be based on:
 - a. Intermittent non-conflicting uses. When required parking reductions are predicted as a result of sharing between intermittent uses with non-conflicting parking demands (e.g. a nightclub and a bank), then the

reduction can be considered.

- b. Parking occupancy rates. When the parking reduction has been shown to be feasible by using the demand calculations as determined by an analysis of typical local parking demand.
 - c. Existing parking surveys. When a study of existing parking shows parking occupancy rates of morning, afternoon and evening peaks on all seven days of the week. The seven days of observation may take place over the span of two consecutive, typical weeks. A combination of similar circumstances may be necessary to cover all the proposed land uses. The approximate square footages of the various land uses of the specimen projects shall be compared to the proposed project to allow the ratios of uses to be rated accordingly.
- 4. Off-street surface parking and parking structures counted towards the required parking shall be within 400' of the use, measured from the exterior wall of the use to the closest perimeter of the surface parking or parking structure.
 - 5. On-street parking counted towards the required parking shall be adjacent to the property for which the parking is intended.

I. Necessary Amendments

In the event that any of the provisions of the CCSP referred to herein are amended, the Zoning Administrator shall concurrently give notice of and process an amendment to this Section 5, in accordance with the procedures outlined in Section 109 of this Zoning Ordinance.

502 MAJOR SPORTS AND ENTERTAINMENT DISTRICT

A. Purpose

The purpose of the Major Sports and Entertainment District (MSED) is to provide an appropriate zoning district to accommodate the unique demands and impacts of (1) facilities used to conduct major sports and/or entertainment events and (2) mixed use and/or destination entertainment developments related to and operated in conjunction with a major sports/entertainment venue. Due to the unique characteristics, form, and impact of these types of these large scale facilities, deviation from traditional zoning standards is necessary in this district.

B. Applicability

- 1. MSED zoning may be established on property where a major sports and entertainment venue is located and directly abutting parcels, subject to the procedures outlined in Section 1 of this Zoning Ordinance. The district may also be established on non-abutting parcels if those properties are located within one-

quarter (1/4) mile of a MSED zoned parcel and if said parcel is to be developed in accordance with the purpose of this zoning district. The district may be established on non-abutting parcels that are located over one-quarter (1/4) mile of a MSED zoned parcel for shuttled event parking only if identified in a Comprehensive Parking Plan for the major sports and entertainment venue.

2. In conjunction with a request to establish MSED zoning, a Conceptual Development Plan (CDP) shall be submitted by the applicant for review and recommendation by the Planning Commission and review and approval by the City Council. The Conceptual Development Plan will generally guide development on the MSED zoned property and shall depict the general locations of existing uses and facilities and the general locations for future planned facilities, uses, open space, and parking areas. Additionally, in order to determine a proposed location will not have significant deleterious effects on the City's scenic corridors, a view corridor study/analysis will be required. The view corridor study will evaluate the height of a venue from multiple points (e.g. building elevations) from multiple views (e.g. perspectives), no more than five miles away.
 - a. Major revisions to the Conceptual Development Plan shall be submitted to the Zoning Administrator to be approved administratively if the revised CDP is in conformance with the requirements of this Section. Major revisions shall include:
 - 1) Any incorporation of a use(s) not previously approved or deletion of a previously approved use(s) with the original CDP.
 - 2) A ten percent (10%) change in the acreages devoted to any use.
 - 3) Any change which could have a significant, adverse impact on areas adjoining the MSED property.
 - 4) Any change which could have a significant traffic impact on roadways adjacent to the MSED property.
 - b. Any revision to the Conceptual Development Plan made by the owner/developer not identified above as major shall be considered a minor revision and shall not require City approval. However, the property owner/developer shall be required to submit a copy of all minor revisions to the CDP to the Development Services Department for inclusion in the zoning case file.

C. Permitted Uses

The following uses shall be permitted in the MSED District:

1. Stadiums, racetracks, arenas, concert pavilions, amphitheaters, performing arts

centers and other similar large-scale major sports and entertainment venues. (Including accessory uses which are customarily incidental, as identified in Section 502.F).

2. Farming and agricultural uses are permitted for an initial period of three years after the establishment of the MSED and thereafter, such use may continue only under a conditional use permit as set forth in Section 502.E below. Dairy farms are prohibited within the MSED.
3. Amusement/Theme Park
4. Museums and Cultural Centers
5. Aquariums
6. Facilities customarily incidental but subordinate to the major sports and entertainment venue, including but not limited to food preparation facilities, multimedia production studios, and storage.
7. Movie theaters, indoor
8. Bars and Nightclubs
9. Restaurants, without drive-thru
10. Retail sales of new merchandise within enclosed buildings, excluding liquor stores.
11. Hotels, resorts, and conference centers which may incorporate restaurants, lounges, spas, gyms, golf courses, equestrian centers, banquet space, and meeting space for community and corporate events.
12. Multiple family residential units subject to the limitations set forth in Section 502.J.2 below.
13. Professional offices
14. Banks and chartered financial institutions, including ATMs.
15. Business support services, including photocopy centers, retail office supply stores, and package delivery services.
16. Health and athletic clubs.
17. Hospitals and urgent-care facilities.
18. Emergency care clinics.

19. Research, design, and development laboratories and parts manufacturing and assembly facilities relating to the major sports and entertainment venue (Example: A facility where advancements in racecar technology are researched, designed, and built in close proximity to an auto racing track).
20. Racing industry related auto body and engine repair shops, painting facilities, emissions testing, and similar uses operated in conjunction with an automobile race track. The service, repair, and restoration of non-racing-related vehicles shall be prohibited.
21. Auto racing schools operated in conjunction with an automobile race track.
22. Vehicle storage facilities, excluding dead vehicle storage.
23. Ecotourism and educational facilities, including but not limited to multi-use trails containing kiosks displaying historical and/or educational information.
24. Green initiatives including structures and facilities for alternative energy sources, including but not limited to solar, wind, and geothermal, architecturally integrated into a building or structure.
25. Event-related recreational vehicle and mobile camper camping and parking and related indoor and outdoor recreation amenities for such uses. Additionally, these uses will be permitted in a non-event setting only if located entirely within the major sports entertainment venue in conjunction with a venue-sponsored program and provided that the campers are limited to short-term stays that do not exceed 14 consecutive days.”
26. Heliports.

D. Uses Permitted With Conditions

The following uses shall be permitted in the MSED District if they adhere to the specified conditions:

1. Drive-thru facilities for allowed uses, subject to the conditions listed in Zoning Ordinance Section 304.G.
2. Except as provided in Section 502.F, pet boarding and day care facilities, without and with outdoor play areas, subject to the conditions listed in Zoning Ordinance Section 304.K and 304.L respectively.
3. Permanent towers and antennae, subject to the provisions of Zoning Ordinance Section 708.

E. Uses Permitted Subject to a Conditional use Permit

To ensure compatibility with surrounding uses and the natural environment, the following uses shall require approval of a Conditional Use Permit, subject to the provisions of Section 1, Administration and Procedures:

1. Green initiatives including structures and facilities for alternative energy sources including but not limited to solar, wind, and geothermal as a separate standalone use not integrated into the design of buildings or structures permitted within the MSED.
2. Child care centers, except as provided in Section 502.F
3. Agricultural and farming uses.
4. Pharmacies, without drive-thru.
5. Non-event related recreational vehicle and mobile camper parking and camping and tent camping located outside of the major sports and entertainment venue.

F. Accessory Uses

1. The following uses are permitted only as an accessory to the use of the primary major sports and entertainment facility on the grounds of the major sports and entertainment venue on event days, as defined by this Ordinance:
 - a. Outdoor sales of merchandise from kiosks, trailers, tents and other mobile merchandising units.
 - b. Outdoor sales of food and beverages (including alcohol) from mobile vending units.
 - c. Family Center, inclusive of a temporary day care facility, provided that the use of which is restricted to event personnel and their immediate family.
 - d. Temporary towers and antennae.
2. The following uses are permitted on a daily basis when located within a mixed use, pedestrian oriented development in the MSED. These uses shall only be allowed if an approved site plan for the mixed use, pedestrian oriented development identifies approximate locations for these uses. A standard design for all kiosks will be approved with the site plan to ensure these uses do not detract from the aesthetics of the overall project:
 - a. Outdoor sales of merchandise from kiosks.
 - b. Sales of food and beverages (including alcohol) from kiosks.

G. Development Standards

The following table outlines the minimum development standards for uses within the MSED. Yard, height, and area requirements may be required in accordance with conditions of conditional use permits or uses permitted with conditions.

	Major Sports and Entertainment Venue	All Other Uses
Minimum Lot Area:	160 acres	None
Minimum site depth:	None	None
Minimum lot width:	None	None
Front setback:	20'	0' to building; 20' to parking
Street setback:	20'	0' to building; 20' to parking
Interior setback:	None	None
Rear setback:	20'	20'
Parking setback from residential district/use:	25'	25'
Maximum lot coverage:	None	None
Maximum building height:	230'	40' by right; and up to 160 feet for Hotel, Multi-Family and Office uses only
Building setback from residential district/use:	1' of setback per 1' of building height	1' of setback per 1' of building height

H. Parking

1. Parking for major sports and entertainment venues (including all subordinate accessory facilities) shall adhere to Zoning Ordinance Section 8, Parking, except:
 - a. Remote (off-site) commercial parking facilities shall be permitted and be used to meet the minimum parking requirements.
 - b. Unimproved parking surfaces shall be permitted subject to dust abatement measures necessary to comply with dust pollution applicable dust pollution laws and regulations.
 - c. There shall be no limit on the maximum number of parking spaces provided for the MSE venue and the minimum number of spaces shall be 1 space per 4 stadium/venue seats.
 - d. Prior to the construction and/or expansion of new parking facilities, a Comprehensive Parking Plan (CPP) establishing a detailed parking plan for

the applicable portion of the major sports and entertainment facility may be submitted by the property owner to the city for review and approval by the Zoning Administrator. The CPP shall identify all parking facilities by location, size, access, fire safety equipment access, and shuttle service routes, and shall be designed to meet the parking needs for the stadium, racetrack, arena, or other MSE facility. Any amendments to the approved CPP that change the parking locations or total permitted parking area under the CPP shall also be approved by the Zoning Administrator.

- e. Section 802.B shall not apply and portions of the required parking may be located off-site as needed to meet minimum requirements.
 - f. Section 802.F shall not apply and recreational vehicles may be parked for the purpose of loading, unloading, emergency service, patronizing a commercial use, and overnight parking.
 - g. Section 803.A shall not apply as parking areas, which, subject to the CPP and this Section, may contain surfaces other than masonry, concrete, or asphalt.
 - h. Section 803.B shall not apply and parking/circulation areas shall be separated from landscaped areas according to approved landscape plans, as applicable.
 - i. Section 803.I shall not apply and instead the provisions of Section 502.K shall govern.
 - j. Sections 803.K and 803.L shall not apply.
 - k. Major sports and entertainment venues shall be exempt from Section 804.C. Where a mix of uses is planned, shared parking requirements may be utilized pursuant to an approved CPP .
 - l. Section 805.A shall not apply
2. Parking for all other uses allowed in the MSED shall adhere to all requirements of Zoning Ordinance Section 8, Parking.

I. Site Lighting

- 1. Lighting for major sports and entertainment venues (including all subordinate accessory facilities) shall adhere to Zoning Ordinance Section 707, Outdoor Lighting, except:
 - a. The maximum height of field/track/stage lighting within the MSED shall be 230’.

- b. Outdoor sports and entertainment venues within the MSED shall be allowed to use field/track/stage lighting so long as the venue is open.
- c. Outdoor sports and entertainment venues within the MSED shall be allowed to mount field/track/stage lighting above parapets, roofs, or grandstands.
- d. There shall be no limitation on the wattage/initial lumens of field/track/stage lighting for outdoor venues. However, shields shall be required to control external glare and minimize uplight to the greatest extent possible. Offsite light trespass from the venue shall not exceed one foot candle at any residential property line.
- e. The maximum height of pole mounted parking lot lighting for MSE venues shall not exceed a maximum height of 110 feet. In or within 75 feet of any residential zoning district, pole mounted lighting may not exceed 16 feet in height.
- f. Temporary lighting shall be permitted for events when any permanent lighting available on the site of the MSE venue does not sufficiently illuminate the venue or parking area.
- g. Permanent Lighting Standards contained in Section 707.C shall not apply to lighting within or affixed to the main structure of a major sports and entertainment venue. Permanent lighting elsewhere on a major sports and entertainment venue site shall comply with the following:
 - 1) Shields shall be provided to control external glare and minimize up-light and offsite light trespass. To the extent practicable and based on the purpose of the lighting, lights shall also be directed downward.
 - 2) External lighting of the face of signs, where permitted, shall be placed in a manner that the illumination source is not visible from the public right-of-way.
- h. Prior to the construction of any new outdoor lighting, an outdoor lighting plan specifying how the lighting for the site complies with the requirements contained herein shall be submitted and include a site plan indicating the locations and types of all fixtures on site, luminaire specifications, and a photometric plan indicating light levels across the property (measured in footcandles). Outdoor lighting plans for major sports and entertainment venues shall be exempt from the requirements of Section 707.
- i. Temporary lighting requirements contained in Section 707.E shall not apply.

- j. Nonstandard lighting requirements contained in Section 707.F shall not apply.
- 2. Lighting for all other uses allowed in the MSED shall adhere to all requirements of Zoning Ordinance Section 707, Outdoor Lighting.

J. Architectural and Design Standards

- 1. Standards and Guidelines for Large Scale Sports and Entertainment Venues

The MSED recognizes the unique nature of large scale sports and entertainment venues and the ability of such facilities to create iconic facilities within a community. Therefore, typical design requirements like those specified in the City’s Design Manuals are not applicable as the style of such a venue must be expressive of the primary activity occurring in the venue while also taking careful steps to complement the surrounding built and natural environments and achieve the aesthetic vision of the City. However, each development shall consider the natural surroundings and environment, and design accordingly. To the extent practicable and taking into account the use of the venue, the design should promote pedestrian connectivity, incorporating shaded refuge areas, and quality design materials. Additionally, applicable design requirements will only apply to the exterior of the facility and buildings internal to the venue and not visible from the public right-of-way are exempt.

- a. Materials.

The design style of the large scale sports and entertainment venues, including subordinate accessory uses within the MSED, will be defined by a palette of materials that are expressive of the nature of the major sports and entertainment venue while combining with materials are associated to the region. Materials should convey an honest expression and permanence while avoiding the look of being applied rather than integrated. Materials used shall be of high quality, durable and genuine and should be consistently expressed through all architectural elements including accessory structures, walls, entry monumentation, landscaping and signage.

Acceptable materials include but are not limited to:

- Sandstone
- Limestone
- Native Stone
- Cultured or Cast Stone
- Precast and Cast in Place Concrete
- Textured Concrete
- Sandblasted Concrete
- Exposed Aggregate Concrete

Sandblasted Concrete Block
Stucco
Glass
Tile (Accent only)
Wood
Corten Steel
Stainless Steel
Galvanized Steel
Painted Steel
Metal Panel systems
Galvanized Aluminum
Oxidized copper
Rammed earth

Plaster or stucco finishes must be used in combination with other high quality materials and should not be the primary building material.

b. Building Design, Wall Plains and Roofs.

Rich and varying materials are desirable on wall planes, roofs, and the ground plane and to the extent reasonable for the scale of a major sports entertainment venue, and large, blank wall surfaces should be avoided. Box-like structures without architectural relief should be avoided but flat roofs with membrane roofing materials are allowed.

c. Retention Basins.

Retention basins should be well landscaped to help add to the aesthetic quality of a site by providing variation to the surface plan. Retention basins should not have a slope steeper than a 4:1 grade. Where basins are deeper than 3 feet, a 6:1 ratio is the maximum slope. Retention basins may be constructed along street frontages.

d. Parking Structures.

The façade of any parking structures shall incorporate the theming/design of the major sports and entertainment venue. Structures should be designed to screen vehicles and headlights from views off-site. The ground-level of the structure should never consist of a featureless length of a wall.

2. Standards and Guidelines for Other Uses

The City's Design Manuals relevant to other uses within the MSED shall apply. Additionally, hotels, offices and multifamily developments within the MSED shall be oriented in a manner that protects the mountain view corridors, to the extent that such orientation is reasonably possible. Furthermore, multifamily uses must

be designed as an integral part of the large scale sports and entertainment venue and stand-alone multifamily uses are not permitted.

K. Landscaping, Walls, and Fences

1. Landscaping, walls, and fences for major sports and entertainment venues (including all subordinate accessory facilities) shall adhere to Zoning Ordinance Section 12, Landscaping, Walls, and Fences, but shall be exempt from all parking lot landscaping requirements including the following:
 - a. Section 1203.B.2.a shall not apply.
 - b. Section 1203.B.3 shall not apply.
 - c. Section 1204.A.1.b shall not apply.
 - d. Section 1204.A.3 shall not apply.
 - e. Section 1204.A.5 shall not apply.
 - f. Section 1204.C.1.d shall not apply.
 - g. Section 1204.C.2. shall not apply and instead, landscaping along public arterial rights-of-way contiguous to new development shall be phased and installed in conjunction with the new development. The installation of street trees within these areas shall be required in an amount equal to or greater than one (1) tree and five (5) shrubs for every thirty (30) feet of arterial street frontage. No trees shall be located within the established public utilities easement however shrubs and groundcover are permissible.
 - h. Section 1204.C.6-8 shall not apply.
 - i. Section 1207.B.2 shall not apply.
 - j. Section 1207.B.4.b shall not apply.
 - k. Except as provided elsewhere in this Section 502.K, Section 1207.B.8 shall not apply and any fencing existing as of December 31, 2010, shall be permitted to remain and be relocated in order to secure the site. New chain-link fencing beyond that date will be permitted (i) within a major sports and entertainment venue and (ii) external to the venue if temporary and race-related.
 - l. Section 1207.F shall not apply.
 - m. Section 1207.G shall not apply and instead, all new, non-event-related outdoor storage areas for materials, vehicles, trailers, equipment, trash or

other similar items shall be enclosed and screened from public rights-of-way. For storage areas not visible from the public right-of-way only, screening may be accomplished by utilizing chain-link fencing, provided that privacy-slats, fabric or landscaping is also incorporated into the fencing system.

- n. Section 1207.H shall not apply.
- 2. Landscaping, walls, and fences all other uses allowed in the MSED shall adhere to all requirements of Zoning Ordinance Section 12, Landscaping, Walls, and Fences.

L. Signs

A Comprehensive Sign Plan (CSP) shall be submitted by the property owner for property located within the MSED zoning District for review and approval by the Zoning Administrator. The CSP shall identify all existing and proposed signs by general location and size. The CSP shall be consistent with the intent and purpose of this section (MSED) and Section 9 (Sign Ordinance) except as specifically provided below. A CSP may propose signage in excess of what is allowed by Section 9 for C-3 uses; any CSP tied to the MSED which proposes signage in excess of Zoning Ordinance maximums within Section 9 for C-3 uses shall require City Council approval. Where a CSP does not address a particular subject, the Sign Ordinance shall control.

- 1. Major sports and entertainment venues (including all subordinate accessory facilities) are exempt from those requirements of Section 9 of the Zoning Ordinance as provided below and alternative standards shall be determined according to the requirements herein as provided in the CSP:
 - a. Section 903.B shall not apply.
 - b. Section 904.B shall not apply, and instead an applicant may submit a CSP at any time. The CSP submittal package shall contain the information required in the Zoning Ordinance.
 - c. Section 905.A.7 shall not apply and signs and sign structures may extend above a building's parapet.
 - d. Section 905.A.8 shall not apply and permanent free-standing signs and sign structures may be located within five (5) feet of an interior property line.
 - e. Section 905.A.10 shall not apply and temporary, event-related signs may be placed on, attached to, or hung from any permanent sign.
 - f. Section 905.A.11 shall not apply and temporary signs and displays may be placed on the roof of any building or structure.

- g. Section 905.C.2 shall not apply during event-related activities
- h. Section 907.A.1 shall not apply.
- i. Section 907.B.2 shall not apply. Permanent pole-mounted signs may be approved by the Zoning Administrator in accordance with a CSP if said signs do not advertise commercial uses but instead are used for directional or identification purposes. For example, pole-mounted signs may be used within parking lots to identify lot locations and to identify bus loading and ticket zones.
- j. Section 907.B.3 shall not apply.
- k. Section 907.C.1 shall apply only to those signs visible from public rights-of-way.
- l. Section 907.C.2 shall apply only to those signs visible from public-rights-of-way.
- m. Section 907.C.3 shall not apply.
- n. Section 907.C.4 shall apply only to those signs visible from public-rights-of-way.
- o. Section 908.C shall not apply, but attachments to temporary signs shall be provided with temporary sign permit.
- p. Section 909.B shall not apply, and instead, if any entity that utilizes a non-conforming sign ceases operation for a period of one year, the nonconforming status of the sign shall be forfeited.
- q. Section 911 shall apply except that off-premise signs, variable message signs, pole signs shall be permitted in accordance with an approved CSP. Vehicles for which the primary purpose is advertising shall be allowed during major venue events only.
- r. Section 912.A.6.b shall apply only to first-floor windows. For all other windows the total sign area for window signs may constitute one-hundred (100) percent of the window area of each window.
- s. Section 912.A.7 shall apply, except that for non-illuminated directional and informational signs, the width of the sign at its base shall be determined according to the CSP.
- t. Section 913.A, B, and C shall not apply.

- u. Section 913.D.1(a) shall apply, except that maximum sign area for primary and secondary elevations may be increased pursuant to the CSP. Signs not visible from public rights-of-way do not count toward maximum sign area.
- v. Section 913.D.1(e) shall not apply.
- w. The size and design of directory signs within major sports and entertainment venues shall comply with the size and design standards for the City Center and Old Town Avondale Business Districts found in Section 913.D.3(b).
- x. Section 913.D.4(a) shall not apply.
- y. Section 913.D.4(c) shall not apply, and instead, the maximum height and area for monument signs shall be determined through the CSP.
- z. Section 913.D.4(e) shall not apply and instead, multiple single tenant signs may be permitted on the major sports and entertainment venue parcel where the separation of the uses on the parcels requires separate monument signs. Uses that are in close proximity to each other should be identified in the CSP on a multi-tenant monument sign.
- aa. Section 913.D.5(a) shall not apply.
- bb. Section 913.D.5(c) shall not apply, and instead, the maximum height and area for monument signs shall be determined through the CSP.
- cc. Section 913.D.6 shall apply to freeway pylons signs, except that freeway pylon signs may be located off-site near freeways (in any commercial or industrial zoning district), on parcels solely dedicated to providing for such freeway pylon signs.
- dd. Section 913.E.1. shall not apply, and instead, a permanent off-premise sign may be provided for within the CSP only where the purpose of such sign is to advertise the major sports and entertainment venue.
- ee. Section 914.B.8 shall not apply to temporary signs erected in conjunction with events at the major sports and entertainment venues.

M. Definitions

Event: A commercial, promotional, motorsports, sports, or entertainment activity taking place at or on an MSED zoned property. Events may occur within the major sports and entertainment venue, within the surrounding parking areas, or both.

Event Day: Any day upon which an event is scheduled to take place in advance at or in a major sports and entertainment venue.

Major Sports and Entertainment Venue: A commercial structure consisting of tiered seats around a field, court, or racetrack, intended to be used for the viewing of sporting events but which may also be used for entertainment and other public gathering purposes. A major sports and entertainment venue may also include food service facilities and other accessory uses customarily associated with the operation of the venue.

**City Council Meeting – Excerpt of Meeting Minutes
August 9, 2010**

**7 REQUEST TO INITIATE A ZONING ORDINANCE TEXT AMENDMENT TO
CREATE A “MAJOR SPORTS AND ENTERTAINMENT” ZONING DISTRICT**

A staff initiated request to amend the Avondale Zoning Ordinance and create a text amendment for a Major Sports and Entertainment (MSE) Zoning District for use in areas encompassing large scale sport-related development such as the Phoenix International Raceway (PIR). Initiating this application will not limit the Council's future options regarding the approval or denial of the proposed text amendment.

Ken Galica, Planner II reviewed the details of this item as more specifically described in the council report.

Mayor Lopez Rogers commented that the proposal may bring a lot of exciting opportunities.

In response to a comment from Council Member Weise, Ken Galica indicated the intent at this time is to limit conditional use permits as much as possible so as to protect the integrity of the neighborhood and to protect established businesses. Council Member Weise commented that a lot can be learned from communities that have established districts similar as the one being proposed.

Vice Mayor McDonald commented that the proposed district will create many opportunities to PIR and for the development of the surrounding area.

In response to a question from Mayor Lopez Rogers, Assistant City Manager David Fitzhugh indicated that the intent is to bring the text amendment to Council before the end of the year and then the zoning of the property and other projects related to PIR after the beginning of the year.

Vice Mayor McDonald moved I move that the City Council initiate a text amendment to the Avondale Zoning Ordinance authorizing staff to draft a Major Sports and Entertainment Zoning District. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Council Member Vierhout	Aye
Council Member Scott	Aye
Council Member Weise	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor McDonald	Aye
Council Member Karlin	Excused
Council Member Buster	Aye

Motion carried 6-0.

MEETING SIGN-IN SHEET

Project: Major Sports and Entertainment District

Meeting Date: Nov 1, 2010

Facilitator: Ken Galica

Place/Room: Sonoran Conference Room

Name	Title	Company	Phone	Fax	E-Mail
KEN GALICA	Planner II	C.O.A.	x.4019	—	Kgalica@sonoran.net
RALPH STREYER	City Mgr	C. of H.	X 4012		streyer@cityofphoenix.gov
David Madrid	AZ Rep	AZ Republic	602-444-6517		dmadrid@azrepublic.com
MARY ROSE EVANS		Resident	877-3965		tridavmom@gmail.com
JUSTIN LALLEI	REAL ESTATE TOP	CBS OUTDOOR	602-477-6036		justin.lallei@cbsoutdoor.com
DAN STREYER			623-772-7970		DGSTREYER@COX.NET
Carolyn Oberholtzer	Atty	Rose Law Group	480-505-3934		carolyn@roselawgroup.com

Email Draft

**City of Avondale Special Planning District
Major Sports and Entertainment District**

11-5-10

This provides comments on the City's draft MSED planning district from Dan Streyle. I am both an Avondale resident living in Garden Lakes (11120 W. Citrus Grove) and a real estate developer with specific experience in Glendale related to the University of Phoenix Stadium and the surrounding development.

Strategy: As I mentioned at the open house I question the strategy of creating a special zoning district. An alternate approach is to create a special district within the General Plan and then allow the property owner(s) to use the PAD process to create their framework. I believe that the PAD can still allow for adequate flexibility on the part of the owner and adequate control on the part of the City. The current approach given the owner's unknown plans appears to create a zoning district with extremely broad parameters. However, assuming that the City is committed to their approach my comments will focus on the specifics in the current draft.

Applicability: Extending the MSED to ½ mile from other MSED parcels could create a very disjointed plan. I would reduce this to ¼ mile or require the parcels to be adjacent.

Conceptual Development Plan: Given the requirements of this CDP this seems to reinforce my belief that a PAD approach could be used.

Permitted Uses: Permitted Uses are typically required with a PAD so this could still be part of the PAD. Consider using a standard matrix (see City Center District) to document all Permitted Uses. Pet boarding and day care seem inconsistent with this District even "with Conditions". Child care seems inconsistent even with a "Conditional Use Permit."

Development Standards: What is the difference between the "MSE Venue" and "All Other Uses"? The Minimum Lot Area of 300 acres is far too large to allow this District to be used anywhere else within the City. In contrast there may be other MSE areas where a 230' building height may be excessive. This requires further study. Why would 0' setbacks from any property lines be permitted anywhere? I would start with 20' setbacks and require the applicant to apply for a variance on a case by case basis. I have no issue with the Interior Setbacks.

Parking: I would permit less parking than 1 per 4 seats if the owner can demonstrate a plan based on shuttle buses.

Site Lighting: Parking lot lights of 110' seems extremely tall. These are typically 30' tall.

Architectural and Design Standards: I believe that trying to establish design standards at this point is fruitless. Why not require a Design Review at some preliminary design phase on a case by case (building by building) basis? Given the unique nature of this District these Design Standards become too broad and too vague.

Excerpt of the Minutes of the regular Planning Commission meeting held November 18, 2010 at 6:30 p.m. in the Council Chambers.

COMMISSIONERS PRESENT

David Iwanski, Chairman
Michael Long, Commissioner
Lisa Amos, Commissioner
Grace Carrillo, Commissioner
David Scanlon, Commissioner
Sean Scibienski, Commissioner

COMMISSIONERS EXCUSED

Angela Cotera, Vice Chair

CITY STAFF PRESENT

Tracy Stevens, Planning Manager, Development Services Department
Ken Galica, Planner II, Development Services Department
Linda Herring, Development Services Representative
Chris Schmaltz, City Attorney

APPLICATION NO. PL-10-0073

APPLICANT: City Council

REQUEST: This is a public hearing before the Planning Commission to review and solicit public input on application PL-10-0073, a City-initiated request to amend Section 5 of the City of Avondale Zoning Ordinance, renaming it from “City Center District” to “Special Districts,” and creating a new “Major Sports and Entertainment (MSED) Zoning District.” The purpose of the new MSED District will be to accommodate the unique demands and impacts of (1) facilities used to conduct major sports and/or entertainment events, and (2) mixed use and/or destination entertainment developments related to and operated in conjunction with a major sports/ entertainment venue. This request will also amend the permitted uses in the City Center District by adding farming as a use permitted subject to conditions. Staff Contact: Ken Galica.

Ken Galica, Planner II, Development Services Department, stated Item PL-10-0073 is a text amendment to Section 5 of the Zoning Ordinance entitled Special Districts. The purpose of this amendment is to rename the section from the City Center District to Special Districts, to allow for limited farming as an interim use prior to development in the City Center District, and to create a Major Sports & Entertainment Zoning District (MSED).

Mr. Galica said that farming will be allowed as a use permitted with conditions in the City Center until the market conditions improve for development. The type of farming allowed will be limited to cultivation of crops. Dairy and livestock uses will not be allowed, nor will greenhouses or other structures. Farming and agricultural uses currently occurring in the district that have been ongoing since the properties were zoned for agricultural use will be considered non-conforming uses and will not be subject to these restrictions.

Mr. Galica explained that the new Major Sports & Entertainment Zoning District (MSED) added to Section 5 has been designed for use on large properties containing or proposed to contain major sports and entertainment facilities, such as stadiums, arenas, racetracks, and large entertainment venues such as large outdoor amphitheaters and concert halls. These venues are major economic generators and destinations for both regional and national visitors. Phoenix International Raceway is an example of such a venue. The positive economic impacts of major sports and entertainment venues can be extended if the properties in proximity to these venues can be developed in such a manner as to capture some of the revenue that might be leaving Avondale currently. The reason for creating this new district is because the current PAD zoning in the area is not ideal for stadiums. Mr. Galica explained that to promote stadiums, a more market driven approach is required to determine which mix of uses will be most successful. As well, PAD zonings expire three years from the date of zoning approval, while stadium area development typically occurs over a long period of time and benefits from no zoning expirations. Mr. Galica referenced a memo recently sent to the Commissioners regarding RV camping and parking uses, which will be permitted during non-event times as long as they are contained within the facility itself, such as on the infield of a racetrack.

Mr. Galica highlighted the sections of the Major Sports & Entertainment Zoning District (MSED).

- **502.A Purpose** – This section defines the MSED district.
- **502.B Applicability** – This section describes which properties are eligible, to include properties with sports and entertainment facilities and the abutting properties, as well as non-abutting properties within a quarter mile. There is an exception for properties over a quarter mile away from a sports or entertainment facility, such as for a shuttle parking use. This section also defines a Conceptual Development Plan, which will be required at the time of rezoning.
- **502.C Permitted Uses** – This section contains a list of large scale sports and entertainment venues that will be allowed, as well as employment and entertainment types of uses, such as restaurants, hotels, resorts, etc. Related light industrial will also be allowed, such as a research and development laboratory that can play off the proximity to a sports or entertainment venue.
- **502.D & E Uses permitted with conditions and uses permitted subject to a Conditional Use Permit** – These sections list the permitted uses, such a standalone green initiatives like solar farms and non-event-related RV parking outside of the facility, which will require Conditional Use Permit approval. Drive-thrus will be permitted with conditions.

Commissioner Scanlon asked for the definition of a drive-thru. Mr. Galica explained this would entail drive-thrus typically attached to restaurants or pharmacies.

Mr. Galica continued his presentation on the MSED sections.

- **502.F Accessory Uses** – This section lists outdoor food/merchandise sales and contains two subsections, one for Event days when outdoor food/merchandise sales will be allowed, and one section for Non-Event days, which allows for outdoor vending in a

specified manner to include approval of the design of kiosks which may be located in a mixed-use district.

- **502.G Development Standards** – This section describes venues and specified uses, as well as building height and setbacks. Building heights are increased to 240 feet for the major sports and entertainment venues. Specific uses include hotels and multi-family residential, which can be up to 160 feet in height as long as the orientation of the structure minimizes interference of view corridors.
- **502.H Parking** – This section covers parking. For venues only, offsite parking will be allowed. There will be no maximum parking limit, limited screening controls, and reduced surface requirements. For future mixed-use development that will occur, the Zoning Ordinance requirements will apply.
- **502.I Site Lighting** – This section covers lighting, which is governed by Zoning Ordinance requirements. For the venues only, the height of the parking lot lighting has been increased to 120 feet and the hours of lighting operation extended.
- **502.J Architectural & Design Standards** – All uses and development will be required to adhere to the City’s Design Manuals. For sports and entertainment venues, the Design Manual requirements are overwritten. The requirements for high quality architecture are maintained.
- **502.K Landscaping, Walls & Fences** – All uses and development will be required to adhere to the City’s standard landscaping requirements. For the sports and entertainment venues, to include parking areas and foundation landscaping, the requirements have been lessened. The primary concern for these large sports and entertainment venues is to require landscaping at the perimeter of the property and reduce interior requirements.
- **502.L Signs** – This section applies to venues and mixed-use developments and states that City Council may approve sign packages in excess of standard Zoning Ordinance requirements due to the unique nature of sports and entertainment facilities. Several sign design requirements are modified, such as permitting pole signs in specific instances. This section specifies that off-site signs to advertise the sport and entertainment venues will be allowed. As an example, if Phoenix International Raceway (PIR) rezoned to MSER, they could pursue a sign adjacent to I-10 including information about upcoming events, etc. Product information on such signs will not be allowed.
- **Definitions 502.M** – Three new definitions have been added to the Zoning Ordinance: 1) Major Sports & Entertainment Venue, 2) Event, and 3) Event Day. The regulations for Event and Event Day change corresponding to Event and Non-Event days.

Mr. Galica stated this text amendment was initiated by the City Council on August 9, 2010. Notification via newspaper ads, press releases, etc. was released for a Neighborhood Meeting, which was held at City Hall on November 1, 2010. Notifications were released via newspaper ads and e-mail on this Planning Commission hearing tonight. This text amendment will come before the City Council on December 13, 2010 for adoption.

Staff recommends approval of this text amendment.

Chairperson Iwanski invited questions and comments.

Commissioner Scibienski stated sports and entertainment uses can be great for the first decade or two, but can become no longer viable after that. He asked what the City can do with sports and entertainment facilities when the use is no longer viable. Mr. Galica stated there is not much the City can do when a large venue is no longer viable. As these venues generally only come to a City if there is large economic development and incentives, he trusts that City Staff will only seek venues that will have a good chance of long term success.

Chris Schmaltz, City Attorney, interjected that this ordinance creates the MSE District, but anyone wanting to develop one of these projects would have to obtain zoning, at which time there will be a development agreement, Planning Commission scrutiny, and City Council scrutiny. This will provide opportunity to address issues of non-viability of a sports or entertainment venue.

Commissioner Scibienski asked how many areas in the city other than Phoenix International Raceway will be able to qualify for MSED zoning. Mr. Galica stated the MSE District requires a minimum of 150 acres. Lakin Ranch is one such property and there are additional opportunities south of the mountain. Few properties in the northern portion of the city have the necessary acreage to qualify for MSED zoning.

Commissioner Scibienski referenced a letter from a developer that lives in Garden Lakes who had taken part in the City of Glendale's program. He stated he agrees with this developer as far as the permitted uses of daycare and pet boarding, in that those uses do not seem to fit the area. He asked what Staff's thinking was for allowing those uses. Mr. Galica explained that for an event like a NASCAR race at Phoenix International Raceway (PIR), a family might come to the area a week in advance of an event and would possibly need daycare and pet boarding. He added he received an e-mail from Mr. Streyle who thanked City Staff for incorporating some of his suggestions.

Commissioner Amos referenced page 14 under Accessory Uses, Section 502.F "Family center, inclusive of a temporary daycare facility, provided that the use of which is restricted to event personnel and competitive racing team members' immediate family." She stated that sounds like the district will only include racing and not soccer, baseball or an ice arena. She suggested changing the language to something more generic. Mr. Galica stated that Staff can consider making the language nonspecific to PIR. Commissioner Amos suggested "team members' immediate family."

Commissioner Amos referenced page 17, under Architectural and Design Standards, a. Materials, first paragraph, "Materials should convey an honest expression and permanence." She asked for a definition of "honest expression." Mr. Galica stated "honest expression" would not include structures which have a fake or false look. The structures must look like real buildings rather than tacked on facades. Commissioner Amos stated if "honest expression" is a term generally known in architecture and planning, she has no problem with it.

Commissioner Amos referenced page 22, Signs, under r., which states "...shall apply only to the first floor windows. For all other windows, the total sign area for window signs may constitute 100% of the window area of each window." She thinks having signage on that many windows will be tacky. Mr. Galica stated the primary reason that Staff limits window area signage is mainly a public safety issue, such as allowing first responders to see into and out of buildings. This becomes less important higher up the building. All signage will be reviewed and approved as part of a comprehensive sign plan. If the signage is tacky, Staff will address the issue.

Commissioner Amos referenced page 23 under Section cc., "...parcels solely dedicated to providing for such freeway pylon signs." She asked for a definition. Mr. Galica explained that for off-site signs, such as PIR signage adjacent to I-10, the developer will be required to purchase the property where the pylon sign will be located.

Commissioner Scanlon referenced page 23, Event and Event Day. He stated an event could be in the eye of the beholder. He suggested Event be defined as something the public is invited to.

Commissioner Amos interjected that private events such as Mazda racing allows dealers, but not the general public, and that is still an event at the facility. Mr. Galica stated there would be private events, but his guess is they would not need the same amount of relaxed standards that the public events do. A dealer event at PIR would not likely need the outdoor sales/merchandise kiosks or RV parking.

Attorney Schmaltz added that in the interest of the City, the City would not want to limit the definition of Event to only public events because it would restrict the City's control. If an event is defined broader, then it captures the religious event where a major venue would be rented and the public would not be invited. If that were to occur, the City would lose the ability to control what happens at that event.

Commissioner Scanlon asked Staff to reconsider the relaxed regulations for Event Days. He added that a religious event is open to a portion of the public.

Commissioner Scanlon referenced page 14, under Development Standards, Major Sports and Entertainment Venue, where there can be a maximum building height of 230 feet. He asked if anyone had completed a view analysis of a 230 foot high building. Mr. Galica stated PIR currently is about 165 feet in height, and this would allow an additional six stories over that.

Commissioner Scanlon referenced the City logo depicting the Agua Fria River and the mountains with unobstructed views. He would hate to have to change the logo to depict a 230 foot office building. Mr. Galica stated that venues can be visually dominant on a landscape. PIR is a big building, but as one travels across the bridge on Avondale Blvd., the views of the mountains are still pretty good. He is not so concerned with the height of office buildings and hotels, as 160 feet heights are in the area right now, and these office buildings and hotels will be oriented specifically to protect the views. While it may not remain a continuous view of the mountains, the actual presence of the buildings will accentuate the view and not block it from nearly all perspectives.

Commissioner Scanlon asked why were 230 foot high buildings being allowed in the first place, as the view of the mountains is the reason why many people live in Avondale. Mr. Galica stated a building that completely blocks out the mountain would be obstructing the view. A building which is designed to compliment the mountains without totally blocking the view would add to the aesthetic. Commissioner Scanlon stated he has yet to see a building that compliments a mountain. He asked why the 230 foot height was selected. Mr. Galica clarified that the 230 foot height is allowed for the stadiums/venues themselves. The other uses, such as hotels, multi-family, and office, are only allowed to be 160 feet in height.

Commissioner Scanlon stated the venue could include not just the stadium, but other structures. He referenced that light poles can be 230 feet high. Mr. Galica referenced the definition for major sports and entertainment venue, which defines "A commercial structure consisting of tiered

seats around a field, court, or racetrack, intended to be used for viewing of sporting events, and may also be used for entertainment and other public gathering purposes. A major sports and entertainment venue may also include food service facilities and other accessory uses customarily associated with the operation of the venue.”

Commissioner Scanlon asked about the heights of structures for TV cameras. Mr. Galica stated such a structure would be considered an associated use and part of the venue itself, and it could be 230 feet in height. Commissioner Scanlon asked if anybody had performed a study to see if that height would block the view. Mr. Galica stated the available view would depend on where the facility is located, where a person is standing, and the distance between the two to triangulate the view corridor. No such study has been completed because the City has no specific locations in mind. There is an existing 165 foot facility at the base of the mountains that does not obstruct views to a large extent for any residences north of the Gila River, and Staff does not feel a 230 foot height would create change the situation dramatically.

Commissioner Scanlon suggested that Staff reconsider the height of buildings allowed as pertains to the views. He would venture a guess that there are properties of 150 acres to the south that would block the view if 230 foot structures were built on them. Mr. Galica reiterated the view depends on the distance of a person’s view from the structure. If a person is a mile away, they would not even notice the structure and will see the mountains, as they tower higher than 230 feet. If a person is 300 feet away, the view would certainly be blocked. This presents a difficulty when doing a sight line study. One needs to know where to measure the sight distance from, and without that, it is almost impossible.

Commissioner Scanlon asked if the language could include “flexibility up to 230 feet dependent upon local factors.” He thinks many folks really like the unobstructed view of the mountains and such an obstruction would detract from the quality of Avondale especially if built on a higher piece of ground. Mr. Galica shared that without a topical survey of the entire city in front of him, he can state the city is relatively flat and there is not a location where such a venue could be built that would be any worse than another. Further, a 20 foot building can block a person’s view of the mountains if the person is standing in the wrong place.

Commissioner Scanlon asked why PIR could not represent a benchmark of the reasonable height for a stadium. Mr. Galica stated there have been discussions about expanding PIR and PIR will likely need more height. Commissioner Scanlon asked if a view analysis had been done on the PIR site if PIR were to increase their structure height to 230 feet. Mr. Galica stated to his knowledge, no view study had been performed to date.

Commissioner Scanlon suggested a view study be performed as he does not want to see an unsightly building obstructing the view of the Estrella Mountains. Mr. Galica stated the Planning Commission could make a view study part of the Commissioners’ recommendation tonight. Commissioner Scanlon stated he is not sure what to recommend as he has no way to envision the effect of a 230 foot structure on the view from any particular point in the city.

Commissioner Scibienski asked if anyone knew how high the University of Phoenix stadium is. Mr. Galica stated he believed it was probably pretty close to the proposed 230 feet.

Commissioner Scibienski stated another example of a stadium built next to a mountain would be Sun Devil Stadium. He asked if anyone knew the height of that stadium.

Commissioner Scanlon stated the Sun Devil Stadium is probably not as tall as the University of Phoenix Stadium.

Commissioner Scibienski stated the Sun Devil Stadium cannot be much shorter than the University of Phoenix Stadium as one stadium can hold 85,000 people and the other 90,000 people.

Commissioner Scanlon stated that is a good example of a structure that fits in well with the surrounding area.

Commissioner Scibienski stated that is an example of a sports venue that works well near a mountain.

Chairperson Iwanski invited further questions.

Commissioner Scanlon referenced page 16, Site Lighting, Paragraph 1.a. "The maximum height of field/track/stage lighting within the MSED shall be 230 feet." He asked if that is for permanent or temporary lighting. Mr. Galica stated that is the maximum height of lighting applied to both permanent and temporary lighting. Commissioner Scanlon stated he thinks lighting up to 230 feet is too high. Mr. Galica asked if Commissioner Scanlon had a building height in mind that he would recommend. Commissioner Scanlon stated the existing PIR stadium could act as a benchmark, as he believes that is an appropriate height. If PIR wants to build higher, if it does not affect the view of the mountains, that would be fine. His sole concern is that the pristine view not be marred with light poles and structures or flashing signs. Mr. Galica suggested language be added to the recommendation that "the building heights in excess of whatever PIR's existing height is could be analyzed and approved, but is not by right at the time of development."

Commissioner Scanlon asked about the light height at 230 feet. Mr. Galica stated the same language on light pole heights could be added to the same recommendation in the motion.

Commissioner Scanlon referenced the memo from Mr. Strell who also states that parking lights at 110 feet in height seems extremely tall. Mr. Galica stated he doesn't disagree that a 110 foot lighting pole is high, but it is a different animal of development when one is parking for 100,000 people rather than a shopping center where a 25 to 30 foot light pole is standard. It isn't reasonable to think the same standards could be applied unilaterally.

Commissioner Scanlon recommended a 30 to 45 foot height and more poles be allowed, but restricting illuminating the mountains with unsightly lighting that everyone will have to live with three to four months of the year.

Commissioner Scanlon referenced page 21, Signs, paragraph c. "Section 905.A.7 shall not apply to signs, and sign structures may extend above the building's parapet." He asked if this would permit a sign like the Western Ho's large, unsightly sign. Mr. Galica stated the Section 905.A.7 language is the same language that is used for the City Center. It simply allows signs that will be evaluated during the comprehensive sign package stage, which will come before the Planning Commission and the City Council. A hideous sign would not be permitted. Roof-mounted signs can work well with architecture and can be contemplated in a stadium area development.

Commissioner Scanlon stated allowing a 230 foot structure with a roof-mounted sign would not limit the height of the sign above the parapet. Mr. Galica stated that PIR has signs that Staff

considers above the parapet because the fencing extends above the grandstands and signs are mounted to the fence. That type of sign would not be allowed by the Zoning Ordinance in many instances, but does need to be considered for these venues.

Commissioner Scanlon stated he would not want to see glitz and asked why open a can of worms by even permitting these heights when on site plan review Staff will have to say no. Mr. Galica stated the intent of Staff is to make the language as flexible as possible for development and then have the ability to evaluate the particulars at a later time. Another example of a development with signs above the parapet is Westgate. One way of looking at the situation is to make things as flexible as possible for developers, and then be confident the City can get the design it wants at a later date. Another way is to be as restrictive as possible up front, which is how the current code reads. This particular zoning district would not even be needed if the City maintains the restrictive existing standards and then makes modifications through a PAD or other process. However, PAD zoning does not work for sports and entertainment venues. From an economic development and revenue generation standpoint, as well as overall sustainability for the City, Staff thinks it best to be flexible in zoning, but to write in enough controls so that the City is confident to get a good product. Commissioner Scanlon reiterated that the great thing about Avondale is the pristine view of the mountains.

Commissioner Long stated he lives approximately four miles north of PIR on El Mirage Road. From his house he cannot see PIR. An additional 60 feet of height in that area will not obstruct the mountains from his view and would not even be noticeable from where he lives.

Chairperson Iwanski asked if the virtual tour at ASU with the elevation mappings would be available to the Commission. Tracy Stevens, Planning Manager, Development Services Department, stated that Staff still has the virtual tour available to show the Commission. Chairperson Iwanski recommended that Staff put the virtual tour on a CD and distribute it to the Commissioners. He stated the virtual tour has mapped out future projects in various locations in Avondale and depicted height relationships from all angles.

Commissioner Scanlon stated he would like to see the virtual tour.

Commissioner Amos stated that while the discussion is on PIR, there could be other 150 to 300 acre properties that could be considered for this zoning district. The height at PIR may be fine, but there should be shades of gray in the language for heights allowed in other areas in order to find a balance to encourage development with specific consideration of each site. Mr. Galica stated the discussion tonight regards the creation of a zoning district and does not apply to specific properties. If a developer were to apply for this zoning district in an area of the city where it would be deemed to be incompatible, there would be no requirement for the Planning Commission to recommend approval of the zoning or of the City Council to approve that zoning. This zoning district is an option, not a guarantee.

Commissioner Scibienski asked if it were possible to address some of the concerns, yet not be too restrictive, by adding language requiring a 3D model from a specific central location on any recommended site plan that is brought before the Planning Commission. That way the Commission can view the model before making a decision. Mr. Galica stated the Commission can certainly add a condition that at site plan the structures will not harm view corridors.

Commissioner Scibienski suggested the language require a virtual model of what the sight corridors will look like at the site plan stage. Then the Planning Commission can make an educated decision. Language saying “do not adversely affect sight corridors” is too subjective.

Mr. Galica stated the question would be from what distance from the proposed facility the virtual model should be completed. Commissioner Scibienski stated the language could read no less than a mile and probably no more than three miles, or the virtual model could be performed from particular vantage points in the City. This would not overregulate, yet still provide City Staff the opportunity to say no.

Attorney Schmaltz stated that if the Planning Commission imposes the requirement of a virtual model at the site plan stage, it is too late. He suggested if the Commission wants to impose a view corridor study, that it be part of the Conceptual Development Plan that is required in conjunction with a request to establish the zoning.

Commissioner Scibienski agreed the view corridor study should be part of the Conceptual Development Plan.

Attorney Schmaltz referenced page 10, Applicability, item 2, "in conjunction with a request to establish MSED zoning, a Conceptual Development Plan shall be submitted by the applicant for review." He suggested there could be a requirement as part of the Conceptual Development Plan for a view corridor study or analysis of the potential impacts on view corridors.

Chairperson Iwanski stated he was not imposing the requirement for an ASU virtual reality assessment. Staff is competent enough to require a study in light of the concerns. He asked Attorney Schmaltz to help with language to include the requirement for a view study during the motion.

Commissioner Scibienski stated if the Commission is to make an amendment to the recommended motion, the Commission will need to specify from what general area the view study should be required.

Commissioner Scanlon recommended the view study be taken from a one mile radius.

Chairperson Iwanski asked if one mile was sufficient.

Commissioner Scibienski stated one mile would not be enough.

Tracy Stevens, Planning Manager, Development Services Department, suggested the view study should be taken between one and five miles because this area is within the Estrella Foothills Specific Plan and that plan is still in process. Staff wants to be sure that within that corridor the view corridors are maintained.

Commissioner Scibienski stated one mile might be a little too close.

Mr. Galica suggested the view study be taken from multiple distances such as at one mile and three miles, or at one mile and five miles.

Chairperson Iwanski suggested a view study taken at no less than one mile.

Mr. Galica suggested a study in a 180 degree radius from the facility from one mile and from three miles.

Commissioner Long stated he does not think 3D versions are necessary. He thinks the work that Staff has done is sufficient. With the planning review, submittal, and zoning requirements that

will have to be met when new projects come in, those safeguards are already in place to make sure proper projects are put in place.

Commissioner Amos referenced page 11, Section B, Applicability, paragraph 2, and suggested adding the language “In conjunction with a request to establish MSED zoning, a Conceptual Development Plan, including a view corridor study, shall be submitted by the applicant.”

Commissioner Scibienski stated if the City is going to require a view study, the City needs to provide basic guidelines.

Commissioner Amos stated when applicants come in for zoning there is a list of requirements to be met.

Attorney Schmaltz suggested the language to page 11, Section B, Applicability, paragraph 2, “The Conceptual Development Plan will guide development and depict the general locations...and include a view corridor study or analysis examined at a 360 degree view of the venue from multiple locations up to five miles away from the venue.”

Commissioner Scanlon approved of the suggested language.

Chairperson Iwanski invited questions and comments on the suggested language.

Commissioner Amos asked what language cities surrounding Avondale use. Mr. Galica stated that he was told by a developer involved with the Westgate project that Glendale did not have the proper zoning for any of their stadiums until a couple of months ago, long after the development had been open for business. He had heard the stadiums were built and then the zoning was changed afterward to match what was built. PIR was built in the county before it became part of the city and it is built to standards that do not exist in the city right now. There are not many cities in the Valley that have a zoning district like this, however, outside of the state, Daytona Beach, Florida is one example which allows the same heights that City Staff is proposing.

Commissioner Scanlon stated he agrees with everything that has been said. As a member of the public he would want to know what a development would look like beforehand, and he thinks it reasonable to ask for a view study. He approves of the suggested language.

Chairperson Iwanski asked Attorney Schmaltz to repeat the language.

Attorney Schmaltz repeated his suggested language to be added to the end of paragraph 2 “open space and parking areas, and includes a view corridor study or analysis examining a 360 degree view of the venue from multiple locations up to five miles away from the venue.”

Chairperson Iwanski invited further questions. There were none.

Chairperson Iwanski asked if someone wants temporary bleachers to accommodate more patrons, would Staff have the flexibility to deal with temporary bleachers or other modifications to the venue to accommodate more or less patrons. Mr. Galica stated that temporary types of structures for a one-day event will not have any difficulty locating in this zoning district as written. Erecting temporary bleachers which become permanent over time would present an issue. Temporary lighting, towers, and antennae for broadcasting purposes are also allowed.

Commissioner Long stated that temporary bleachers would fall under building and fire code inspections, so any temporary structure would have to be approved through the City prior to installation and then inspected after installation to see if it meets code.

Chairperson Iwanski opened the public hearing for item PL-10-0073. He stated he had a speaker card from Scott Bullock.

Carolyn Oberholtzer, Rose Law Group, 6613 Scottsdale Rd., stated she would like to introduce Scott Bullock, Director of Development, International Speedway Corporation, to the Planning Commission. She stated that PIR has been working closely with Staff to establish an ordinance that will allow them to continue to expand and grow. PIR would also like the ordinance to apply to another venue at some point. The International Speedway Corporation has experience all over the country building race facilities and addressing heights and such. She stated Scott Bullock could answer many of the Commissioners' questions.

Scott Bullock, International Speedway Corp., stated if the City's logo needed to change, then PIR's logo would need to change as well because it depicts the mountains too. The mountains in the background of their facility make this facility special. The last thing they would want to do is anything that would be a detriment to the view corridor. The allowed height of 230 feet is based on new grandstand studies between Turn 4 and Turn 1. His previous development experience has been at Disney where views and heights of facilities are very important. One of the ways to perform a view study is to fly balloons to the height the facility would be and see if the balloons can be seen from different vantage points. Mr. Bullock stated he is nervous about a request for a view study "up to" five miles because it would mean that someone from a short distance away could say the view was blocked. He would like to understand from what street the view corridor study would be required from. He would think an additional 60 feet at PIR would not make a difference because of the massive height of the mountain range. If one is standing on Indian Springs Road, an additional 60 feet will be a detriment to the view, but from two miles away it may not be a detriment. He reiterated that language "up to five miles" is too subjective and he would like more guidance.

Chairperson Iwanski invited questions.

Commissioner Scibienski stated "up to five miles and multiple points" suggests it would be up to the group proposing the zoning to pick what they believe is a fair representation for a view study, and then Staff could request a view study from an additional distance if necessary. He thinks the proposed language is not overly specific and will allow flexibility. Going more specific will pile more work on the developer.

Chairperson Iwanski stated he believes the Commission wants to provide that flexibility.

Attorney Schmaltz stated the language is not to establish standards for approval, but will ask what are the closest residential units that could be built next to the site, and what are the views from the closest existing residential uses. The language would provide guidance for developers in terms of how close can people live and still be able to see the mountains. The developer can then prepare the view study to provide multiple views to address the concerns heard tonight as part of the application materials. That way all the concerns could be answered at the front end. He thinks it is impossible to write language that would address every scenario. Up to five miles means the Commission wants to see that the view from five miles away will not be impeded. This provides flexibility for the developer and Staff.

Carolyn Oberholtzer, Rose Law Group, stated the confusion with the proposed language is the 360 analysis, which implies a 3D level. They have found in the past that flying the balloons has been very effective to show whether or not one can see something at its height or not. She suggested the language “from multiple points within a five mile radius.” Then during the application process for the rezoning, they will work with Staff to define the points the view study will be performed from, but it should not be interpreted to require a 360 degree analysis, which is potentially burdensome and cost prohibitive.

Chairperson Iwanski stated he finds Ms. Oberholtzer’s suggestion reasonable.

Attorney Schmaltz stated he does not think the language suggested by Ms. Oberholtzer is reasonable at all. He is not comfortable with changing the 360 degree language to “multiple views of the venue from multiple locations.”

Commissioner Scanlon stated this language would not apply only to PIR. A 360 degree analysis would be reasonable in some instances, such as for a professional wrestling venue, but probably unreasonable for PIR.

Chairperson Iwanski asked if the language “multiple points” would give Staff the ability to request a 360 or 180 degree study. Attorney Schmaltz confirmed that changing the language to read “multiple points” is fine.

Commissioner Scibienski stated “360 degrees views” could be deleted and leave the language “from multiple views at no more than five miles.” It would not be necessary to say “multiple points from multiple views.”

Attorney Schmaltz stated the language “multiple views” is necessary because there are different facades and different views from multiple locations. The Commission will want multiple views, of multiple facades, from multiple locations. The language “examining multiple views of the venue from multiple locations up to five miles away” works.

Commissioner Scibienski agreed with Attorney Schmaltz’s suggested language.

Chairperson Iwanski thanked Staff and the Commissioners for their discussion and closed the public hearing.

Chairperson Iwanski invited further discussion, and hearing none, called for a motion. He asked legal counsel for guidance on the motion.

Attorney Schmaltz said they would want to address the specific language changes in the motion. He stated there were other comments that were made in terms of questions. He has notes based on the Commissioners’ comments on Accessory Uses and changing “competitive racing and immediate family members” to “event participants.”

Commissioner Amos stated her initial thought was participants, but that could be anyone who paid to get in the door. She suggested that the City Council could come up with a good word in place of participants.

Chairperson Iwanski stated the City has one chance to get it right.

Attorney Schmaltz suggested the language “team or participant members and immediate family.”

Commissioner Amos asked if event personnel would include the drivers, pit crew, football players, the water boy, etc. She suggested “event personnel” period.

Attorney Schmaltz stated the language “members of immediate family” is an attempt to broaden the scope beyond simply the paid personnel or the participants in the event to include their entourage.

Chairperson Iwanski stated he believes the target audience has been included. The Commissioners do not want to limit it to racing crews.

Attorney Schmaltz stated the language “participants and members of immediate family” would capture the racing teams and individuals who show up for a competitive event where they would need their children to be watched.

Chairperson Iwanski asked if deleting the word “racing” and using “competitive team members and their immediate families” would work.

Mr. Galica reminded the Commissioners that this language would also be applied to entertainment venues, so teams might not be involved.

Commissioner Scibienski suggested the language “venue user.” That would not include those watching the venue, but the parties renting the venue and performing.

Commissioner Carrillo asked if “venue user” would be the same as “event personnel.” She asked why Staff’s language stated “competitive racing team” to begin with.

Commissioner Scibienski stated that Staff had PIR in mind.

Mr. Galica confirmed that particular provision was written with PIR in mind.

Commissioner Amos stated at Disney there are places behind that are only for staff and asked what is that called.

Mr. Bullock stated at Disney the personnel are called “cast members.” PIR was contemplating “event personnel.”

Attorney Schmaltz suggested “event personnel and immediate family.”

Chairperson Iwanski suggested “event personnel and their immediate family.”

Attorney Schmaltz asked for clarification on the section.

Mr. Galica stated the text suggestions are for page 14, Section 502.F-1C, “Family Center inclusive of a temporary daycare facility, provided that the use of which is restricted to event personnel and competitive racing team members’ immediate family.”

Commissioner Scibienski asked for clarification of the proposed amendment language.

Chairperson Iwanski stated “competitive racing team” would be removed.

Commissioner Scibienski suggested “Family Center, inclusive of a temporary daycare facility, provided that the use of which is restricted to event personnel and members of immediate family.”

Commissioner Amos suggested “event personnel and immediate family.”

Attorney Schmaltz suggested “event personnel and their immediate family.”

Chairperson Iwanski thanked the Commissioners for their comments and perseverance.

Attorney Schmaltz stated that he had noted more comments, but only Section 502.F-1C contains specific language changes.

Chairperson Iwanski invited any further language changes the Commissioners wanted to add.

Attorney Schmaltz stated the definition of Event, page 23, under M, had also been discussed in terms of adding the word “public.”

Commissioner Scanlon stated his suggestion was to further define the definitions of Event and Event Day under Section M, page 23.

Commissioner Scibienski stated he agreed with City Council’s recommendation to leave the definition broad. Every option cannot be foreseen and adding the language “public” may present issues.

Chairperson Iwanski invited further comments.

Commissioner Long voiced agreement with leaving the definition of Event broad.

Commissioner Carrillo voiced agreement with leaving the definition of Event broad.

Chairperson Iwanski clarified that the changes to Section 502.F-1C and to the definition of Event on page 23, Section M, are the only two specific language changes.

Chairperson Iwanski entertained a motion and a second.

Commissioner Scibienski **moved** that the Planning Commission accept the findings and recommend approval of application PL-10-0073, a request to amend the City of Avondale Zoning Ordinance, Section 5, Special Districts, as shown in the revised Exhibit A, proposed Zoning Ordinance, Section 5, Special Districts, version 2.0, dated November 18, 2010, with the following two amendments: First add to Section 502.B-2 a view corridor study or analysis at multiple points, from multiple views, no more than five miles away. Second, remove from Section 502.F-1C the phrase “racing team members.”

Chairperson Iwanski suggested the language “event personnel and their immediate family.”

Commissioner Scibienski continued his motion on Section 502.F-1C, stating remove “racing team members” and add the word “their” before “immediate family.”

Chairperson Iwanski called for a second.

Commissioner Amos **seconded** the motion.

Chairperson Iwanski called for a roll call vote.

ROLL CALL VOTE

Chairperson Iwanski	Aye
Vice Chair Cotera	Excused
Commissioner Long	Aye
Commissioner Amos	Aye
Commissioner Carrillo	Aye
Commissioner Scanlon	Aye
Commissioner Scibienski	Aye

The motion passed unanimously.

RESOLUTION NO. 2943-1210

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 SPECIAL DISTRICTS REGULATIONS, AMENDED AND RESTATED DECEMBER 13, 2010."

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

SECTION 1. That certain document entitled the "City of Avondale Special Districts Regulations, Amended and Restated December 13, 2010", 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, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

ORDINANCE NO. 1434-1210

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE ZONING ORDINANCE, SECTION 5, CITY CENTER DISTRICT, AND ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT KNOWN AS THE "CITY OF AVONDALE SPECIAL DISTRICTS REGULATIONS, AMENDED AND RESTATED DECEMBER 13, 2010."

WHEREAS, all due and proper notices of public hearings on this Ordinance held before the City of Avondale Planning and Zoning Commission (the "Commission") and the Council of the City of Avondale (the "City Council") were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing regarding the subject matter of this Ordinance on November 18, 2010, after which the Commission recommended to the City Council that the actions contemplated by this Ordinance be approved; and

WHEREAS, the City Council held an additional public hearing on this Ordinance on December 13, 2010.

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

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The document known as the City of Avondale Special Districts Regulations, Amended and Restated December 13, 2010 (the "Special Districts Regulations"), three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 2943-1210 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 3. The City of Avondale Zoning Ordinance (the "Zoning Ordinance"), Section 5, City Center District, is hereby deleted in its entirety and replaced by the Special Districts Regulations, which shall be inserted into the Zoning Ordinance as a new Section 5, Special Districts.

SECTION 4. Any person who fails to comply with any provision of the Special Districts Regulations shall be subject to civil and criminal penalties as set forth in Section 114 of the Zoning Ordinance. Civil penalties shall not exceed \$1,000.00. Criminal penalties shall

constitute a class one misdemeanor, punishable by a fine not to exceed \$2,500.00 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Special Districts Regulations 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 6. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, December 13, 2010.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney