



# CITY COUNCIL AGENDA

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

REGULAR MEETING  
July 18, 2011  
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. Special Meeting of June 20, 2011
2. Regular Meeting of July 11, 2011

**b. CONTRIBUTIONS ASSISTANCE PROGRAM - COUNCIL SUBCOMMITTEE FUNDING RECOMMENDATIONS**

City Council will consider funding recommendations made by the Council Subcommittee for distribution of the fiscal year 2011-12 Contributions Assistance Fund. The Council will take appropriate action.

**c. CONTRACT AWARD - AREA AGENCY ON AGING FOR FY 2011 - 2012 (2012-06-AVO)**

City Council will consider a request to approve the Area Agency on Aging FY 2011 -2012 contract in the amount of \$300,564 to provide services for Congregate Meals, Home Delivered Meals, Multipurpose Center Operations and Transportation for seniors in Avondale, Goodyear and Litchfield Park and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**d. PROFESSIONAL SERVICES AGREEMENT - ENGINEERING MAPPING SOLUTIONS, INC.**

City Council will consider a request to approve a Professional Services Agreement with Engineering Mapping Solutions for the purpose of providing GIS database maintenance, design of web map applications, and development of customized GIS tools, in an amount not to exceed \$69,500 over the term of the contract, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

**e. COOPERATIVE PURCHASING AGREEMENT - CENTIMARK CORPORATION**

City Council will consider a request to approve a construction services agreement with Centimark Corporation to repair the roof at Fire Station 173, authorize the use and transfer of contingency funds in the amount of \$61,988.90 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**4 PUBLIC HEARING AND RESOLUTION 2992-711 - MINOR GENERAL PLAN AMENDMENT FOR NEWPORT APARTMENTS (PL-11-0046)**

City Council will hold a public hearing and consider a resolution approving a request by Mr. John DiTullio to amend the 2002 General Plan Land Use designation of a parcel of land located south of the southeast corner of Van Buren Street and Dysart Road from Medium High Density Residential to Multi-Family Residential . The Council will take appropriate action.

**5 PUBLIC HEARING AND ORDINANCE 1465-711 – REZONING FOR NEWPORT APARTMENTS (PL-11-0045)**

City Council will hold a public hearing and consider an ordinance approving a request from Mr. John DiTullio on behalf of the property owner for the rezoning of the Newport Apartments located on a 6.79 acre parcel of land south of the southeast corner of Van Buren Street and Dysart Road from Manufactured Home Park (MH) to Multi-Family Residential (R-4). The Council will take appropriate action.

**6 EXECUTIVE SESSION**

- a. The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding (i) negotiations for a potential Economic Development Agreement, (ii) threatened litigation with respect to alarm regulations and (iii) the SLT Expressway litigation.

**7 ADJOURNMENT**

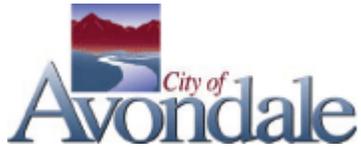
Respectfully submitted,



Carmen Martinez  
City Clerk

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

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:**  
APPROVAL OF MINUTES

**MEETING DATE:**  
July 18, 2011

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

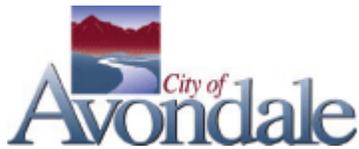
**PURPOSE:**

1. Special Meeting of June 20, 2011
2. Regular Meeting of July 11, 2011

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Contributions Assistance Program - Council  
Subcommittee Funding Recommendations

**MEETING DATE:**

July 18, 2011

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that City Council approve the funding recommendations made by the Council Subcommittee for distribution of the proposed \$50,000 Contributions Assistance Fund

**BACKGROUND:**

The budget for fiscal year 2011-12 authorized \$50,000 for the Contributions Assistance Program. Council appointed a review subcommittee on April 18, 2011. Applications for funding were received from 30 non-profit organizations applying for a total of \$276,160.

**DISCUSSION:**

The Council subcommittee reviewed applications on June 6, 2011 based on the following criteria:

- Applicants must provide direct services which improve the health and welfare of Avondale residents.
- Applicants that received previous funding must be current in their reporting and have submitted timely and accurate quarterly reports.
- Applicants must demonstrate the ability to generate revenue from other sources.
- Priority will be given to services that support and address the needs of the residents of the City of Avondale and provide services directly in Avondale.

The Council subcommittee made the following funding recommendations:

- Boys and Girls Club \$5,000
- Community Bridges \$5,000
- Mission of Mercy \$5,000
- New Life Center \$5,000
- St. Mary's Food Bank \$5,000
- A New Leaf \$5,000
- West Valley Arts Council \$3,000
- Kids at Hope \$3,000
- Central Arizona Shelter Services (CASS) \$2,890
- Phoenix Conservatory of Music \$2,550
- Agua Fria Food Bank \$2,500
- Cesar Chavez Foundation \$2,400
- Southwest Valley Literacy \$2,160
- Southwest Lending Closet \$1,500

**BUDGETARY IMPACT:**

The budget for FY 2012 authorized \$50,000 for the Contributions Assistance Program.

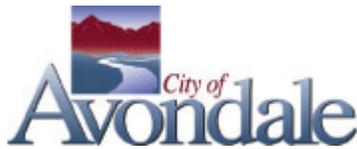
**RECOMMENDATION:**

Staff recommends that City Council approve the funding recommendations made by the Council Subcommittee for distribution of the proposed \$50,000 Contributions Assistance Fund.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Contract Award - Area Agency on Aging for FY 2011 - 2012 (2012-06-AVO)

**MEETING DATE:**

July 18, 2011

**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 approve the Area Agency on Aging (AAA) FY 2011 -2012 contract in the amount of \$300,564 to provide services for Congregate Meals, Home Delivered Meals, Multipurpose Center Operations and Transportation for seniors in Avondale, Goodyear and Litchfield Park and authorize the Mayor or City Manager and City Clerk to execute the contract documents.

**DISCUSSION:**

The City of Avondale has contracted with Area Agency on Aging (AAA) to provide nutritional meals and activities for seniors and handicapped individuals for over twenty one (21) years. Services are provided to eligible residents in Avondale, Goodyear, and Litchfield Park. These services include the congregate meals program, the home delivered meals program, the multipurpose center operations program and transportation program.

AAA has awarded the City of Avondale \$300,564 of program funds, which will provide funds to provide services to the senior population. This funding is a continuation of the grant which is renewed annually. These funds will be used to provide meals, activities, programs, guest speakers and transportation to seniors at the Avondale Community Center.

The current agreement expired on June 30, 2011. However, AAA was not able to approve funding to participant municipalities until June 28, 2011.

**BUDGETARY IMPACT:**

The Area Agency on Aging funding to the City of Avondale is unchanged from FY 2010 - 2011. The funding is sufficient for the AAA portion of the City of Avondale senior program.

**RECOMMENDATION:**

Staff recommends that the City Council approve contract with Area Agency on Aging for FY 2011-2012 substantially in the form attached and in the amount of \$300,564 to provide services for Congregate Meals, Home Delivered Meals, Multipurpose Center Operations and Transportation for seniors in Avondale, Goodyear and Litchfield Park and authorize the Mayor or City Manager and City Clerk to execute the contract documents .

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Professional Services Agreement - Engineering Mapping Solutions, Inc.

**MEETING DATE:**

July 18, 2011

**TO:** Mayor and Council

**FROM:** Wayne Janis, Public Works Director (623) 333-4444

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a Professional Services Agreement with Engineering Mapping Solutions for the purpose of providing GIS database maintenance, design of web map applications, and development of customized GIS tools, in an amount not to exceed \$69,500 over the term of the contract, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The GIS databases are utilized by several City departments including Engineering, Economic Development, Planning, Police, and Public Works, and maintaining these databases to ensure they are current and accurate is a large and on-going task. GIS staff desire the design of better web applications that will allow data sharing with staff throughout the City, allowing them to work more efficiently and make more informed decisions. In addition, there is a growing need for customized tools to augment several in-house applications, including EAM and ACCELA. If approved, this Agreement will provide for data maintenance support, the design of web map applications, and customized GIS tool creation.

**DISCUSSION:**

The City has contracted with Engineering Mapping Solutions (EMS) for GIS database development, maintenance, and support for several years. EMS was approved as a sole source vendor for these services. City staff worked with EMS to develop the scope of services and identify an appropriate fee. The proposed Professional Services Agreement establishes a two-year contract that will produce web maps that are customized to fit the needs of various departments throughout the City. Specialized tools will also be created that will allow the GIS Division to be more productive in the daily work of data maintenance.

**BUDGETARY IMPACT:**

Funding is available in the Water Operations Budget, Line item 501-9111-00-6180.

**RECOMMENDATION:**

Staff recommends that City Council approve this Professional Services Agreement with Engineering Mapping Solutions for GIS database maintenance, design of web map applications, and development of customized GIS tools, in an amount not to exceed \$69,500 over the term of the contract, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

## ATTACHMENTS:

Click to download

 [PSA](#)

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
ENGINEERING MAPPING SOLUTIONS, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of July 18, 2011, between the City of Avondale, an Arizona municipal corporation (the "City") and Engineering Mapping Solutions, Inc., an Arizona corporation (the "Consultant").

RECITALS

A. The City desires to maintain, further develop and implement existing and new Geographic Information Systems ("GIS") programs.

B. Pursuant to the Avondale City Code, Section 25-23, and because Consultant has successfully worked with the City to develop and implement customized GIS programs, the City has determined that Consultant possesses unique knowledge and skills that are essential to the City's continued maintenance, further development and implementation of its customized GIS programs.

C. The City has determined that Consultant's unique knowledge and skills qualify Consultant as the sole source for the continued maintenance, further development and implementation of the City's customized GIS programs.

D. The City and Consultant desire to enter into an agreement for GIS data maintenance, technical support and internet webpage hosting (the "Services").

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 7, 2013.

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

3. Compensation. The City shall pay Consultant an amount not to exceed \$69,350.00 for the Services as set forth in the Fee Proposal, included as part of the Scope of Work attached hereto as Exhibit A.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document

and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

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

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

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

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

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

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

11. Insurance.

11.1 General.

a. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated

minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

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

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

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

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

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

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

h. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

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

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

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

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

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

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

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

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form is used, the phrases in the cancellation provision "endeavor to"

and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

## 11.2 Required Insurance Coverage.

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

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

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

d. Workers’ Compensation Insurance. Consultant shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having

jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

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

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

13. Termination; Cancellation.

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

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

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

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

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

provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the City shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The City shall be the sole judge and authority in determining the availability of funds under this Agreement and the City shall keep the Consultant fully informed as to the availability of funds for the Agreement. The obligation of the City to make any payment pursuant to this Agreement is a current expense of the City, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the City. If the City Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and the Consultant shall be relieved of any subsequent obligation under this Agreement.

#### 14. Miscellaneous.

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

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

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

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

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

14.6 Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

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

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

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

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

14.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys'

fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

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

14.13 Offset.

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

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

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

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

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

If to Consultant: Engineering Mapping Solutions, Inc.  
2330 West Mission Lane, Suite 1  
Phoenix, Arizona 85021  
Facsimile: (602) 870-7812  
Attn: Phil W. Ponce, P.E.

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

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

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

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

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

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

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of the Agreement, the Scope of Work and the Fee Proposal, the documents shall govern in the order listed herein.

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

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

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

**“City”**

CITY OF AVONDALE, an Arizona  
municipal corporation

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

ATTEST:

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

**“Consultant”**

ENGINEERING MAPPING SOLUTIONS,  
INC., an Arizona corporation

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

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

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

(ACKNOWLEDGMENTS)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on \_\_\_\_\_, 2011,  
by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal  
corporation, on behalf of the City of Avondale.

\_\_\_\_\_  
Notary Public in and for the State of Arizona

My Commission Expires:

\_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on \_\_\_\_\_, 2011,  
by \_\_\_\_\_ as \_\_\_\_\_ of        ENGINEERING  
MAPPING SOLUTIONS, INC., an Arizona corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for the State of Arizona

My Commission Expires:

\_\_\_\_\_

EXHIBIT A  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
ENGINEERING MAPPING SOLUTIONS, INC.

[Scope of Work and Fee Proposal]

See following pages.

March 2011

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# Proposal for

City of Avondale, Arizona

GIS Software & Data Maintenance Support



ENGINEERING MAPPING SOLUTIONS, INC.  
2330 WEST MISSION LANE, SUITE 1  
PHOENIX, AZ 85021  
(602) 870-7811

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	<b>Task 1 - Utility Support and Consultation .....</b>	<b>5</b>
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# I Background

Engineering Mapping Solutions, Inc. ('EMS') has assisted the City of Avondale's Geographic Information Systems ('GIS') implementation since 2002.

GIS has successfully implemented the EMSWebMap viewing software for the viewing of GIS data and SewerVideos. Since the original rollout one year ago, ESRI has updated the release of the API to 2.1 and Microsoft has updated the underlying browser framework to Silverlight 4. This critical update will allow us to provide many new functions including access to the GPS signal and routing optimization.

The following matrix details the necessary tasks, fees and delivery scheduling for EMS to perform and document GIS support and data creation services for a two calendar year period from July 1, 2011 through June 30, 2012.

## II. Proposed Scope of Work, Schedule & Fees

Task	Description	Deliverables	Schedule	Fees
1.1	Data maintenance and support: utility conversion	Updated utility infrastructure geodatabase features and attributes	As required	\$16,150
1.2	Arc Toolbar program maintenance and support	Updated software releases for Crossfire program, plus support services to address user issues	As required	\$14,250
2.1	Arc 10 and Silverlight 4/.NET 4 upgrades	On-call support and software updates		\$1,900
2.2	WebMap 4 front counter interface	Completed and deployed application for front counter use	Prior to June 2011	\$9,500
2.3	WebMap4 Routing optimization	These projects include a Watershutoff and Senior Meals on Wheels routing applications	Prior to August 2011	\$9,500
2.4	HIML Quarter section application update	Completed and functional web-based application	Prior to March 2011	\$3,800
2.5	WebMap4 GPS on laptop interface for web mapping	Updated software release for WebMap4 that interfaces with the COM port to capture GPS NMEA string for current location.	Prior to Nov 2011	\$5,700
2.5	WebMap4 External Database Integration	Completed and functional web-based application	Prior to March 2012	\$8,550
			<b>TOTAL PROFESSIONAL FEES</b>	<b>\$69,350</b>

### III. Task Descriptions

#### Task 1 - Utility Support and Consultation

##### **Task 1.1 Maintenance Assistance**

The GIS department calls upon EMS for assistance with specialized tasks related to the maintenance of the GIS data. Oftentimes, these tasks are not forecasted and are called for here as a means to engage EMS with those critical tasks. EMS will assist with maintenance/tasks City staff is unable to complete on their own due to time or workforce limitations. Also included in this task is the processing of County Aerial Imagery to be used in the Field Map application.

In 2010 EMS assisted with the conversion of Sewer Videos. This included splitting existing data on DVD into individual images and then link to the appropriate pipe in the GIS. EMS proposes this task for the new DVDs that are not yet processed.

EMS assists the department by hosting the Accela and EAM GIS data. This task item also covers incidental support rendered as a result of requests from the Water Department and IT. Although the hosting is no longer needed since the City has taken over that role, included in this task will be the remote read-only access of EAM data into WebMap.

For example, should a user wish to see the EAM data on a pipe, WebMap will select the pipe and “reach out” to the EAM databases to display the associated data. This is handled through a function known as “related data” and is read-only.

Should the City wish to pursue direct editing of the EAM data such as modification of data, creation of new assets and/or work orders, this will be done in conjunction with purchase of the Infor API that offers programmatic interface into the data. EMS will assist with the necessary tasks to develop the workflows and necessary WebMap interfaces to accomplish this goal.

##### **Task 1.2 Toolbar upgrades and support**

During the course of editing, certain maintenance activities can be further automated through the development of automated tools. This task covers the design and development of those tools. It is anticipated that no more than 5 tools will be needed under this agreement. We also anticipate the migration to Arc 10 which will require adapting the existing tools to the new environment. This will be a good opportunity to rework any maintenance workflows to insure the newly delivered tools are optimized in the process.

EMS will incorporate additional workflows such as Traffic Streetlights into the maintenance process. EMS will work with the City to modify the necessary database structure to house the data as well as custom placement assemblies to automate the workflow.

## Task 2 – Software Upgrade and Development

### Task 2.1 Silverlight 4 & .NET Framework Upgrade

Microsoft has updated the underlying framework the browser relies upon, called Silverlight. The Silverlight 4 release is now solid and we can leverage this toolset in our line of business applications.

ESRI has also leveraged this toolset in their latest release of the ESRI Silverlight API 2.1. EMS has upgraded the WebMap viewer to take advantage of the updated features in both releases. This will enable us to provide the rich interface users have come to expect in an application as well as access to the COM port, critical for GPS signal access.

EMS will work with GIS and IT to ensure they have the proper installation to support this new implementation as well as support the source code.

### Task 2.2 Front Counter Interface

This will be an add-on development effort to the existing WebMap software. Our focus will be to provide an application that enables easy access to the GIS data sufficiently easy for ad-hoc front counter use.

The goal would be to enter an address or owner name and receive vital information at the users fingertips, including, but not limited to:

- School Districts (primary, high school, colleges)
- Trash collection
- Voting Precincts
- Emergency sites such as Police, Fire, and Hospitals
- Other City buildings and services
- Recreation Areas
- Commercial locations such as restaurants

### Task 2.3 Routing Optimization

This will be an add-on component to the existing WebMap software. The focus of which is to provide route-based optimized decision making to the City. Once we incorporate the GIS centerlines, many decisions can be guided by using routing algorithms mixing spatial data with workflows.

Two target applications are as follows:

- Water Shutoff requests are made on a daily basis. Oftentimes the department is provided a list of address locations. These are dealt with using best-guess methods relying on the local knowledge of the technicians. We propose using an automated method of locating the shutoff requests on a map, then optimizing a route that will best address those locations, and lastly, provide a mechanism to balance the load between two or more field technicians.

- A critical service provided by the city is the senior meals program. Locations of the deliveries will be input into the system in an automated fashion and the optimized route will be produced.

#### **Task 2.4 HML Quarter Section Update**

A legacy application, the HML Quarter Section viewer is widely used throughout the City. With upgrades to the underlying firmware, updates are necessary to ensure the system is working correctly. No changes have been made to the system in over 5 years and specific functional requests will be addressed.

#### **Task 2.5 Laptop GPS Interface**

This will be an add-on component to the existing WebMap software. With the distribution of the Silverlight 4 plug-in to the browsers (automatically deployed through Microsoft update), we now have the ability to access the COM port of the client device. Simply stated, this enables us to capture the GPS signal and move the map based on your current location.

This is a very desirable feature in the WebMap application as it will enable true mobile functionality.

Included in this task is the ability to capture field redlines. This critical interaction with field personnel will insure field-identified changes will be effectively transmitted back to the office for editing and incorporation into the GIS. The redline functionality will allow field users to annotate issues discovered and instantly e-mailed back to the appropriate office contact thus reducing paper and time to transmit from the field.

#### **Task 2.6 External Database Integration**

This add-on component to the existing WebMap software permits interoperability between existing non-GIS data and the core GIS Enterprise. As access to core GIS data continues to expand, there will be the need to integrate other line-of-business applications into the GIS for functions such as searching or read-only viewing.

Examples of this functionality include the ability to access the database that houses the Quarter Section Mapping sheets, based on the Quarter Section the user is hovering in, the associated map will be brought up for viewing and/or printing. This can be controlled by the existing information button or a custom button on the toolbar will be provided.

Another example includes reaching out to databases maintained by other departments such as displaying fees paid on all permits on a particular lot. This information can be summarized on the screen and/or formatted into a report for printing.

## **Professional Qualifications**

EMS has long supported Avondale GIS with software and professional services. While our CAD-based maintenance utilities served the department for several years, their migration to ESRI's Arc 10 environment requires the update and/or replacement of existing tools. Several internally-created tools are no longer functional in the new platform and will also be updated.

EMS is recognized as a leader in the area of GIS Services here in the valley. Having fully developed the data and maintenance procedures for the several localities, our knowledge ensures our deliveries will serve the current and future needs of GIS, and considers all external aspects as well. EMS's innovative, yet practical, approach to solving problems ensures that GIS will have solutions that are cost-effective, efficient, maintainable, and scalable for future growth.

Since 1986, our team members have provided leadership in the GIS field through participation in local and national boards, and have implemented GIS solutions nationally and valley-wide. Our many clients have benefited greatly from our GIS experience. Our years of experience assisting and guiding Avondale's GIS department will greatly benefit this engagement.

With over 40 combined years of GIS expertise in Arizona, we are also ESRI Business Partners, Timble Navigation Partners, and Autodesk Developers.

## **Conclusion**

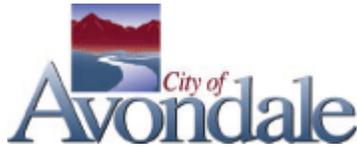
In conclusion, we welcome your consideration of this proposal through the adopted City of Avondale review procedures. EMS shares your commitment to the update of your existing maintenance software and conversion tools.

We look forward to assisting you with this vital project and welcome any questions you may have.

Sincerely,



Phil Ponce, P.E.  
VP Engineering Mapping Solutions, Inc



# CITY COUNCIL REPORT

**SUBJECT:**

Cooperative Purchasing Agreement - Centimark Corporation

**MEETING DATE:**

July 18, 2011

**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 approve a construction services agreement with Centimark Corporation to repair the roof at Fire Station 173, authorize the use of contingency funds in the amount of \$61,988.90, and authorize the Mayor or City Manager and City Clerk to execute the contract documents.

**DISCUSSION:**

The roof at fire station 173 needs to be repaired due to numerous leaks occurring under the tile portion of the roof. The flat roof over the high bay also has several leaks and will need repairs to gutters and drains. The roof also leaks into the sleeping quarters of the firefighters.

The roof had a two year warranty which has expired. The quote for the repairs to the roof was obtained from Centimark Roofing. Centimark is on the Mohave Contract # 09A-CTMK-0416. Centimark's quote is in the amount of \$61,988.90 and includes all labor, material, taxes and a 5 year warranty.

The roof repair for Fire Station 173 is an unfunded request. However, staff supports the use of the funds due to the high priority nature of the personnel and resources at Fire Station 173. The roof repair should be completed prior to the monsoon season. Centimark can begin work in one week after receipt of the purchase order. Centimark Roofing has performed re-roofing services for the City of Avondale for fire station 171, the police sub station on Western Ave, and fire station 172.

**BUDGETARY IMPACT:**

The roof repairs is an unfunded request. Staff is requesting the use and transfer of contingency funds in the amount of \$61,988.90 to complete all of the necessary repairs.

**RECOMMENDATION:**

Staff recommends that the City Council approve a construction services agreement with Centimark Corporation to repair the roof at Fire Station 173, authorize the use and transfer of contingency funds in the amount of \$61,988.90, and authorize the Mayor or City Manager and City Clerk to execute the contract documents.

**ATTACHMENTS:**

Click to download

 [Cooperative Purchasing Agreement](#)

**COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
CENTIMARK CORPORATION**

THIS COOPERATIVE PURCHASING AGREEMENT (this "Agreement") is entered into as of July 18, 2011, between the City of Avondale, an Arizona municipal corporation ("City"), and Centimark Corporation, a Pennsylvania corporation (the "Contractor").

RECITALS

A. After a competitive procurement process, Mohave Educational Services Cooperative, Inc., an Arizona non-profit corporation ("MESC"), entered into Contract No. 09A-CTMK-0416 dated April 16, 2009, as amended (the "MESC Contract"), for the Contractor to provide repair and restoration of roofing systems materials and services. A copy of the MESC Contract is attached hereto as Exhibit A and incorporated herein by reference.

B. The City is permitted pursuant to Section 25-24 of the City Code to purchase such parts and services under the MESC Contract, at its discretion and with the agreement of the awarded Contractor, and the MESC Contract permits its cooperative use by other public entities including the City.

C. The City and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging a cooperative contractual relationship under the MESC Contract, (ii) establishing the terms and conditions by which the Contractor may provide the City with repair and restoration of roofing systems materials and services, as more particularly set forth in Section 2 below (the "Materials and Services") and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Materials and 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 are hereby acknowledged, the City and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until April 15, 2012, unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement or the MESC Contract.

2. Scope of Work. Contractor shall provide the Materials and Services under the terms and conditions of the MESC Contract, attached hereto as Exhibit A, and as more particularly set forth in the Scope of Work and Fee Proposal, attached hereto as Exhibit B and incorporated herein by reference. By signing this Agreement, Contractor acknowledges and agrees that unauthorized pricing, exceptions, conditions, limitations, or provisions in conflict

with the terms of this Agreement or the MESC Contract, other than City's project-specific quantities, configurations or delivery dates, are hereby expressly declared void and shall be of no force and effect.

3. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$61,988.90 for the Materials and Services at the unit rates as set forth in MESC Contract.

4. Payments. The City shall pay the Contractor monthly, based upon acceptance and delivery of Materials and/or Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall (a) contain a reference to this Agreement and the MESC Contract and (b) document and itemize all work completed to date. The invoice statement shall include a record of materials delivered, time expended and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the MESC Contract will be subject to rejection and may be returned.

5. Records and Audit Rights. The Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement to ensure that the Contractor and its subcontractors are complying with the warranty under Section 6 below (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (a) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (b) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 6 below. To the extent necessary for the City to audit Records as set forth in this Section, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this Section. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

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

7. Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Contractor certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this 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 Contractor submitted a false certification, the City may impose remedies as provided by law including terminating this Agreement.

8. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

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

10. Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the City shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The City shall be the sole judge and authority in determining the availability of funds under this Agreement and the City shall keep the Contractor fully informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is a current expense of the City, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the City. If the City Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and the Contractor shall be relieved of any subsequent obligation under this Agreement.

11. Inspection; Acceptance. All Materials and Services are subject to final inspection and acceptance by the City. Materials failing to conform to the requirements of this Agreement and/or the MESC Contract will be held at Contractor’s risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Upon discovery of a non-conforming Material or Services, the City may elect to do any or all of the following by written notice to the Contractor: (a) waive the non-conformance; (b) stop the work immediately; or (c) bring Material or Service into compliance and withhold the cost of same from any payments due to the Contractor.

12. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work and Fee Proposal, invoices and the MESC Contract, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Agreement or the MESC Contract (collectively, the “Unauthorized Conditions”), other than the City’s project-specific quantities, configurations or delivery dates, are expressly declared void and shall be of no force and effect.

Acceptance by the City of any proposal, quotation or invoice containing any such Unauthorized Conditions or failure to demand strict performance of any term or condition set forth in this Agreement or under the MESC Contract or to exercise or delay the exercise of any right or remedy provided in this Agreement, the MESC Contract, or by law, or the City's acceptance of and payment for Materials or Services shall not alter or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations imposed by this Agreement, the MESC Contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

13. Indemnification; Insurance. The City shall be afforded all of the rights, privileges, insurance coverage and indemnifications afforded to the Mohave Educational Services Cooperative, Inc., under the MESC Contract, and such rights, privileges, insurance coverage and indemnifications shall accrue and apply with equal effect to the City of Avondale under this Agreement including, but not limited to, the Contractor's obligation to provide the indemnification and insurance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement 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

**“Contractor”**

CENTIMARK CORPORATION,  
a Pennsylvania corporation

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

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

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

(ACKNOWLEDGMENTS)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on \_\_\_\_\_ 2011,  
by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona  
municipal corporation, on behalf of the City of Avondale.

\_\_\_\_\_  
Notary Public in and for the State of Arizona

My Commission Expires:

\_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on \_\_\_\_\_, 2011,  
by \_\_\_\_\_ as \_\_\_\_\_ of CENTIMARK CORPORATION,  
a Pennsylvania corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for the State of Arizona

My Commission Expires:

\_\_\_\_\_

EXHIBIT A  
TO  
COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
CENTIMARK CORPORATION

[MESC Contract]

See following pages.

625 E. Beale St.  
Kingman, AZ 86401  
(928) 753-6945 • Fax (928) 718-3232

**INVITATION FOR BID 09A-0318**  
***DUE MARCH 18, 2009 @ 4:30 P.M. MST***

**Bids shall be delivered to Mohave Educational Services Cooperative, Inc., 625 E. Beale Street, Kingman, AZ 86401.** Bids must be submitted in a sealed envelope or box properly addressed to Mohave Educational Services Cooperative, Inc., with IFB 09A-0318, Bid Due Date and Time, and Bidder's Name and Address clearly indicated on the envelope or box. Mohave will not be responsible for late receipt of bids. Bids must be in the actual possession of Mohave on or prior to the exact time and date indicated above. Bids shall be opened immediately following the bid due date and time. The name of each bidder and a sample of prices will be publicly read and recorded.

Pursuant to the provisions in the Arizona Department of Education School District Procurement Rules R7-2-1001 thru R7-2-1195, Mohave Educational Services Cooperative, Inc. seeks bids to establish contracts for sources for the following materials, equipment and/or services:

- **Repair and Restoration of Roofing Systems**

**PRE-BID CONFERENCE: NONE**

This solicitation consists of instructions, general terms and conditions, award criteria, bid form, form of contract, special terms and conditions, and specifications. Bidders are strongly encouraged to carefully read all general information, the special terms and conditions, and specifications for the products/services being offered. Failure to examine any of the requirements will be at bidder's risk.

Mohave reserves the right to cancel this solicitation and/or reject all bids in whole or in part if Mohave determines that cancellation and/or rejection are advantageous to Mohave and/or its members.

***Questions regarding this Invitation For Bid should be directed to:***

**Mark DiBlasi, CPPB, Contract Specialist II**  
**Craig A. McKee, CPPB, Director of Contracting Programs**

**Email [contracts@mesc.org](mailto:contracts@mesc.org)**  
**(928) 753-6945**



**Tom Peeler, Executive Director**  
**Mohave Educational Services Cooperative, Inc.**

**Date: February 18, 2009**



**Award Notification  
Via Email**

Martin Carty  
Centimark Corporation  
4/16/09

Congratulations, Centimark Corporation's response has been awarded a contract under IFB 09A-0319. Attached is a copy of the contract signature page. Important notes and action items regarding the award are listed on page two.

Your organization is bound by the terms of this contract: **only items specifically requested in this solicitation and submitted in your response to this solicitation will be authorized/allowed.**

Advise your Mohave customers to make purchase orders out to Centimark Corporation. Purchase orders must be faxed (928-718-3232), or emailed ([orders@mesc.org](mailto:orders@mesc.org)) to Mohave for review.

**Do not perform any work or provide any products until you receive a "Mohave Reviewed" purchase order.**

We highly recommend having your staff review Mohave's vendor handbook to learn more about working with Mohave. It is available on-line at [www.mesc.org](http://www.mesc.org).

Please check all the entries on the contract record attached. You may make additions or revisions to the description (40 words or less), contact persons, etc. Email back any changes as soon as possible to [tomd@mesc.org](mailto:tomd@mesc.org).

If you have any questions regarding your new contract, please call me at (928) 718-3201. We look forward to working with you and your company in the future.

A handwritten signature in black ink, appearing to read "Craig A. McKee". The signature is stylized and cursive.

Craig A. McKee, CPPB  
Director of Contracting Programs

NOTES ON AWARD FOR: Centimark Corporation

- Please remind the member of their responsibility to independently verify that quotations and purchase orders comply with the terms of the award of a contract or procurement. This responsibility is set by rule and statute, and cannot be changed by Mohave. Members can go to [http://www.mesc.org/contract\\_documentation.html](http://www.mesc.org/contract_documentation.html) to assist in meeting this due diligence responsibility.
- Financial information included under Tab 4 of your response will be kept confidential, unless it is in the form of an annual report for the general public.
- All products quoted must be priced and approved by Mohave in advance. Send requests for pricing updates to Mark DiBlasi - [mark@mesc.org](mailto:mark@mesc.org).
- Do not provide any goods/services until you receive a Mohave approved purchase order.
- Quick payment discounts must be approved by Mohave before being offered to Members, and must be available equally.

Order cycle overview:

1. Members forwards purchase orders to Mohave. Vendor is Centimark Corporation.
2. Mohave emails Member order to Centimark Corporation.
3. Centimark Corporation provides product/services.
4. Centimark Corporation invoices Member.
5. Member pays Centimark Corporation.
6. Centimark Corporation sends Usage and Reconciliation Report to Mohave.
7. Centimark Corporation remits administration fee monthly, based on invoices paid.
8. Mohave audits selected purchases.

REQUIREMENTS/ACTION ITEMS FOR THE AWARD:

- You agreed to provide a Usage and Reconciliation Report detailing activity under the contract, and payment for Mohave administration fees for invoices paid in the previous month. Your report is due on the 10th of each month.
- This contract will be administered as a fixed price contract, as you did not provide retail prices. An annual electronic price update is required. Pricing must be submitted in the same format as the original Excel workbook.
- In accordance with Arizona law and your Mohave contract, 100% performance and payment bonds must be provided to the member prior to performing work on projects over \$33,689.

**Offer and Contract Award**

Place after Tab 1

**IFB 09A-0319  
Repair and Restoration of Roofing Systems**

*To Mohave Educational Services Cooperative, Inc.:*

The undersigned hereby certifies understanding and compliance with the requirements in the General Terms and Conditions. Bidder further agrees to furnish materials and/or services in compliance with all terms, conditions, specifications and amendments in the solicitation and any written exceptions in the offer.

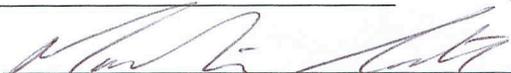
Federal Employer Identification Number 25-1194990

Company Name Centimark Corporation

Address 1956 West Cheryl Drive City Phoenix State AZ Zip 85021

Telephone Number 602-944-0300 Fax 602-944-2153

Printed Name Martin Carty Title SW Regional Manager

**Authorized Signature** 

**The Contractor shall not commence any billable work or provide any material or service under this contract unless and until Contractor receives a purchase order from Member with Mohave's review noted.**

If you are willing to honor purchase orders from Cooperative Educational Services in New Mexico under the same terms and conditions as in this IFB place your initials in the box. (See Appendix I for details.)

If you are unable to service New Mexico, please initial this box.

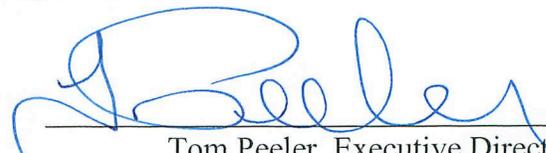
**Acceptance of Offer and Contract Award (Mohave Only)**

**Your Bid is Hereby Accepted:**

As Contractor, you are now bound to sell the materials and/or services offered to and accepted by Mohave in accordance with the solicitation, including all terms, conditions, specifications, amendments, etc.

This Contract shall be referred to as Contract Number 09A-CTMK-0416

Awarded this 16<sup>th</sup> day of APRIL 2009.



Tom Peeler, Executive Director  
Mohave Educational Services Cooperative, Inc.



IFB 09A-0319  
Repair & Restoration of Roofing Systems  
4/15/09, MWD  
Revised 4/16/09 CAM

**Recommended for award**  
**Centimark Corporation**  
**Jim Brown & Sons Roofing Co. Inc.**  
**Weatherproofing Technologies, Inc.**

Awarded as recommended.  
T. Peeler, 4/16/09

We received three responses to IFB 09A-0319. Sample jobs were selected prior to receiving responses for IFB 09A-0319. Prices corresponding to the numbered line items in each sample job were entered for each bidder. The bids were compared using the selected sample pricing. Centimark Corporation was determined to be the lowest bidder on three of the four sample jobs, and the lowest price overall. Jim Brown & Sons Roofing was the 2<sup>nd</sup> lowest price on each sample job and overall. Weatherproofing Technologies was the lowest bidder on one of the sample jobs in the comparison.

All were determined to be responsive and responsible. They provided the following required information:

- Bid security of \$33,689
- Evidence of required bonding capacity
- Provided the products and services requested in solicitation
- Demonstrated necessary experience
- Demonstrated ability to adequately service members statewide for all products and services offered

Details for the recommended awards are as follows:

- **Centimark Corporation:** Centimark Corporation manufactures most of the products in their bid. They provide Firestone, GAF, Johns Manville and other supplemental product lines. They are a current contract holder under contract #04C-CTMK-0416.
- **Jim Brown & Sons Roofing Co. Inc:** The main manufacturer for the roofing systems bid was Johns Manville. Although they have not held a contract with Mohave previously, most of their references were from current Mohave members. Johns Manville is one of the most popular roofing manufacturers in the world and was not available as a complete roofing system under previous Mohave contracts.
- **Weatherproofing Technologies, Inc.:** Weatherproofing Technologies manufactures all of the products offered in their bid (under the brand name Tremco). They are a current contract holder under contract #04C-WPTI-0416. A large number of members have Tremco roofs.

It was determined that a multiple award is in the members' best interests. The award as proposed will ensure prompt responses to service requests for our members all over Arizona. It will provide members who have standardized on Centimark, Johns Manville or Tremco products access to those systems, and allow for continuity of testing and warranty/replacement services for each of these brands.

This multiple award will result in some minor brand overlap (Johns Manville, Firestone) between Centimark Corporation and Jim Brown & Sons Roofing Co. Inc. However, Centimark Corporation uses the brands that will overlap as supplements to their own products. Jim Brown & Sons' main manufacturer for the roofing systems bid was Johns Manville. We have determined this to be the least number of suppliers to meet the members' requirements listed above.

The bidders recommended for award are not on the United States General Services Administration's Excluded Parties List.

**Not recommended for award**  
None

# Extension of Contract

(Page 1 of 2)

Adam Turnell  
Centimark Corporation  
1956 West Cheryl Drive  
Phoenix, AZ 85021

**RE: Contract # 09A-CTMK-0416 Extension Agreement made by and between Centimark Corporation and Mohave Educational Services Cooperative (MESC).**

In accordance with its terms, Mohave desires to extend contract 09A-CTMK-0416 for a period of one (1) year, beginning 4/16/2011. The extension shall be under the same terms and conditions contained therein, except as outlined on page two of this extension of agreement.

Please indicate your desire to extend by completing the appropriate information below and on page two. If the contract is extended, Centimark Corporation agrees to provide products or prices as per 09A-0319.

-----  
We desire to **extend** the contract as specified above, and agree to abide by the original terms & conditions, and any attached clarifications.

Signature  Title Project Manager  
Typed/Printed Name Adam Turnell Date 4/21/11

Please check the information below.

POs Att: Order Desk  
Centimark Corporation  
1956 West Cheryl Drive  
Phoenix, AZ 85021

Remit to: Centimark Corporation  
Accounts Receivable  
1956 West Cheryl Drive  
Phoenix, AZ 85021

Member Contact: Adam Turnell Phone Number: ~~602-944-0300~~ Fax Number: ~~602-944-2153~~  
Contract Administrator: Adam Turnell 602-333-6645 602-333-6652

We also ask you to review your contract description on our "Product/Vendor Finder" page at [www.mesc.org](http://www.mesc.org).  
Email any corrections to [contracts@mesc.org](mailto:contracts@mesc.org)

-----  
**If both pages of this notice are not received at Mohave's Kingman office on or before 4/16/2011, orders may be held without processing. Email or Fax completed extension to [contracts@mesc.org](mailto:contracts@mesc.org) or (928) 718-3238**

*To terminate contract 09A-CTMK-0416 effective 4/16/2011, send a notice of such to (928) 718-3238 or email [contracts@mesc.org](mailto:contracts@mesc.org). You agree to complete any authorized work or orders received prior to that date.*

# Extension of Contract

(Page 2 of 2)

Centimark Corporation 09A-CTMK-0416

## Pricing Update:

We list your contract as having predominantly Fixed pricing. Please check the applicable lines below:

Our contract has fixed prices. We agree to hold the current prices until the next anniversary.

Our contract has percentage off retail pricing. The current price lists/catalogs are still applicable.

We will provide new catalogs by \_\_\_\_\_ (insert date)

I intend to provide pricing 4/29/2011 (insert date)

Remember that you cannot quote any new items or new pricing unless and until it has been approved by Mohave. Your pricing on file at Mohave is in effect until we have approved new pricing.

Email is preferred for price updates. Please identify any new items you may be proposing.

## Green contracting:

In our ongoing commitment to green procurement, we ask you to review the following with regard to your contract:

Are there environmental protection and sustainability considerations that could be added into your contract?

Yes

What products or services in your contract support environmental protection and sustainability?

We offer Daylighting, Solar, low VOC products and recycle roofing material

Identify the services in your contract generally accepted as environmentally friendly and sustainable:

Utilizing energy star approved roofing products

What, if any, testing or certification substantiates that the products or services in the contract protect the environment and improve sustainability?

Our products are Energy Star or USGBC approved.

What testing or certifications (such as LEED certification) do the products or services in your offer support?

Our products and services can support LEED, Energy Star and USGBC.

Any other "green" considerations we should make members aware of?

Centimark has the ability to calculate energy cost on existing roofs or proposed roof assemblies to provide the best

# Extension of Contract

Centimark Corporation 09A-CTMK-0416

## Pricing Update:

*We list your contract as having predominantly Fixed pricing. Please check the applicable lines below:*

I have attached my pricing update and/or new catalogs.

Our contract has fixed prices. We agree to hold the current prices until the next anniversary.

Our contract has percentage off retail pricing. The current price lists/catalogs are still applicable.

We will provide new catalogs by \_\_\_\_\_(insert date)

I intend to provide pricing \_\_\_\_\_(insert date)

Remember that you cannot quote any new items or new pricing unless and until it has been approved by Mohave. Your pricing on file at Mohave is in effect until we have approved new pricing.

Email is preferred for price updates. Please identify any new items you may be proposing.

## Green contracting:

*In our ongoing commitment to green procurement, we ask you to review the following with regard to your contract:*

Are there environmental protection and sustainability considerations that could be added into your contract?

NA

What products or services in your contract support environmental protection and sustainability?

NA

Identify the services in your contract generally accepted as environmentally friendly and sustainable:

NA

What, if any, testing or certification substantiates that the products or services in the contract protect the environment and improve sustainability?

NA

What testing or certifications (such as LEED certification) do the products or services in your offer support?

NA

Any other "green" considerations we should make members aware of?

NA



5/10/2010

# Extension of Contract

(Page 1 of 2)

Serving Arizona Since 1971

▶ 625 E. Beale St., Kingman, AZ 86401  
▶ PHONE: (928) 753-6945 ▶ FAX: (928) 718-3232

Adam Hamrick  
Centimark Corporation  
1956 West Cheryl Drive  
Phoenix, AZ 85021

**RE: Contract # 09A-CTMK-0416 Extension Agreement made by and between Centimark Corporation and Mohave Educational Services Cooperative (MESC).**

In accordance with its terms, Mohave desires to extend contract 09A-CTMK-0416 for a period of one year (1) year, beginning 4/16/2010. The extension shall be under the same terms and conditions contained therein, except as outlined on page two of this extension of agreement.

Please indicate your desire to extend by completing the appropriate information below and on page two. If the contract is extended, Centimark Corporation agrees to provide products or prices as per 09A-0319.

-----  
We desire to **extend** the contract as specified above, and agree to abide by the original terms & conditions, and any attached clarifications.

Signature  Title Project Manager  
Typed/Printed Name Adam Hamrick Date 5/10/10

Please check the information below.

POs Att: Order Desk  
Centimark Corporation  
1956 West Cheryl Drive  
Phoenix, AZ 85021

Remit to: Centimark Corporation  
Accounts Receivable  
1956 West Cheryl Drive  
Phoenix, AZ 85021

Member Contact: Adam Hamrick Phone Number: 602-944-0300 Fax Number: 602-944-2153  
Contract Administrator: Adam Hamrick

We also ask you to review your contract description on our "Product/Vendor Finder" page at [www.mesc.org](http://www.mesc.org).  
Email any corrections to [contracts@mesc.org](mailto:contracts@mesc.org)

-----  
**If both pages of this notice are not received at Mohave's Kingman office on or before 4/16/2010, orders may be held without processing. Email or Fax completed extension to [contracts@mesc.org](mailto:contracts@mesc.org) or (928) 718-3238**

To terminate contract 09A-CTMK-0416 effective 4/16/2010, send a notice of such to (928) 718-3238 or email [contracts@mesc.org](mailto:contracts@mesc.org). You agree to complete any authorized work or orders received prior to that date.

Remainder of MESC Contract No. 09A-CTMK-0416 on file with the City Clerk.

EXHIBIT B  
TO  
COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
CENTIMARK CORPORATION

[Scope of Work and Fee Proposal]

See following pages.

# CENTIMARK PROPOSAL

DISTRICT: Avondale Fire Department #173  
11510 West Durango  
Avondale, Arizona

DATE: 5/3/2011

ATTN: David Ramuz  
Phone: 623-333-2430  
Fax: 623-333-0240

**Avondale Fire Station #173  
11510 West Durango Street  
Avondale, Arizona 85323**

## SCOPE OF WORK

Remove existing concrete roof tiles.

Remove existing underlayment and install new 90# underlayment.

Install new 50 year shingles.

Complete removal of all debris associated with our work.

Provide owner with Prime contractor five (5) year warranty on re-roof services greater than 10,000 sq ft.

<u>ITEM #</u>	<u>WORK DESCRIPTION</u>	<u>UNITS</u>	<u>QTY</u>	<u>MOHAVE PRICE</u>	<u>EXTENDED PRICE</u>
2.29.02	Remove existing concrete tiles and underlayment to deck	SF	10,388	\$ 0.95	\$ 9,868.60
2.30.05	Install 3 layers of 30 pound felt @.60 per square foot per layer	SF	31,164	\$ 0.60	\$ 18,698.40
2.32.05	Shingles Fiberglass 50 year Class A	SF	10,388	\$ 2.75	\$ 28,567.00
				SUB TOTAL:	\$ 57,134.00
				PAYMENT/PERFORMANCE BOND:	\$ 1,142.68
				SUB TOTAL:	\$ 58,276.68
				*TAXES:	\$ 3,712.22
				TOTAL:	\$ 61,988.90

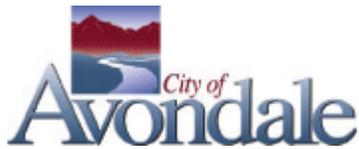
Taxes have been estimated; actual taxes to be paid shall be calculated at time of completion of work.

\*\* Above pricing INCLUDES applicable Mohave's administrative fees

Mohave Contract Number: 09A-CTMK-0416

Arizona License Numbers: ROC172001, ROC139890

Jeffrey A. Hanson  
Project Manager  
Centimark Corporation  
Office: 602-333-6641  
Cell: 602-561-2046



# DEVELOPMENT SERVICES

**SUBJECT:**

Public Hearing and Resolution 2992-711 - Minor General Plan Amendment for Newport Apartments (PL-11-0046)

**MEETING DATE:**

July 18, 2011

**TO:** Mayor and Council

**FROM:** Sue McDermott, Development Services Director/City Engineer (623) 333-4211

**THROUGH:** Charlie McClendon, City Manager

---

**REQUEST:** Minor General Plan Amendment from Medium High Density Residential to Multi-Family Residential approval for Newport Apartments.

**PARCEL SIZE:** Approximately 6.79 acres

**LOCATION:** South of the SEC of Van Buren Street and Dysart Road

**APPLICANT:** Mr. John DiTullio, Attorney with Ballard Spahr LLD 602-798-5421

**OWNER:** ALR Arizona Apartments JVI, LLC (312) 983-7091

**BACKGROUND:**

The subject property was annexed into Avondale on June 18, 1956. It was built as a 204 unit apartment complex named Newport Apartments in 1986 (Exhibit E). The existing density is 30 dwelling units per acre. It is located 405 feet south of the southeast corner of Van Buren Street on Dysart Road, an interim 4 lane arterial roadway.

The City Council adopted the General Plan on June 17, 2002 and it was subsequently ratified by the voters on September 10, 2002. A significant component of the General Plan document is the Land Use Map, which illustrates Avondale's vision regarding the types of uses and densities desired in future development and redevelopment.

The current General Plan Land Use Map identifies the subject property as Medium High Density Residential (Exhibit A). This designation is intended to accommodate 4-8 dwelling units per acre, with a target density of 4 dwelling units per acre.

**SUMMARY OF REQUEST:**

1. Approval of a Minor General Plan Amendment to the land use designation of the 2002 General Plan Land Use Map, for approximately 6.79 acres, from Medium High Density Residential to Multi-Family Residential.
2. Rezoning application (PL-11-0045) has been submitted and processed concurrently with the Minor General Plan Amendment to change the zoning from Manufactured Home Park (MH) to Multi-Family Residential (R-4). The approval of the Rezoning application is contingent on the approval of the Minor General Plan Amendment.

**PARTICIPATION:**

On April 29, 2011 the applicant sent letters to 36 property owners whose parcels were located within

500 feet of the subject property inviting them to a neighborhood meeting held on May 31, 2011. The notice was published in the West Valley View on May 10, 2011. The property was posted on May 5, 2011. There were no attendees at the neighborhood meeting.

On June 1, 2011 letters were mailed to the 36 property owners whose parcels were located within 500 feet of the subject property notifying them of the Planning Commission meeting on June 16, 2011. No additional comments on the proposal have been received. The Planning Commission hearing notice was published in the West Valley View on May 31, 2011. On May 25, 2011 the sign was updated to reflect the date and time of the Planning Commission meeting.

On June 17, 2011 letters were mailed to the 36 property owners whose parcels were located within 500 feet of the subject property notifying them of the City Council meeting on July 18, 2011. No additional comments on the proposal have been received. The City Council notice was published in the West Valley View on June 24, 2011. On June 22, 2011 the sign was updated to reflect the date and time of the City Council meeting.

All notifications included information to discuss both proposals, the Minor General Plan Amendment, PL-11-0046, and the Rezoning, PL-11-0045.

The Planning Division has received no opposition from the public concerning this application request.

#### **PLANNING COMMISSION ACTION:**

The Planning Commission conducted a public hearing on June 16, 2011, and voted 5-0 to recommend approval of this request (Exhibit H).

Vice Chair Cotera and Commissioner Amos were excused from the meeting.

#### **ANALYSIS:**

The City Council must determine that the proposed amendment meets four findings prior to recommending approval. Staff's analysis of each of the required findings is presented below.

1. The development pattern contained on the Land Use Plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment.

The 2002 General Plan designates 280 acres (1%) of the Multi-Family Residential land use designation. Currently there are 245 fully developed existing acres (.87%) of multi-family use within the City of Avondale, to include the subject property. This demonstrates there is still a need for additional multi-family residential.

2. The amendment constitutes an overall improvement in the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners.

This amendment is required to bring the property into conformance with the General Plan Land Use map. The site was built in accordance with the zoning in 1986 and has operated successfully ever since. It serves as a buffer and natural transition between a manufactured home park and commercial establishments. The location is within close proximity to Interstate 10 (I-10), regional retail, and employment, which promotes sustainability and efficiency. The approval of this application will benefit not only the City of Avondale, but its residents along with the property owners.

3. The amendment will not adversely impact the community as a whole and/or a portion of the community by: (1) significantly altering acceptable land use patterns; (2) requiring large and more expensive public infrastructure improvements including, but not limited to roads, water, wastewater, and public safety facilities than would otherwise be needed without the proposed change, or (3) adversely impacting the existing land use.

By changing the land use to Multi-Family Residential, the impact to the community will be less than if the current Medium High Density land use is kept and the property is unable to be revitalized due to the nonconforming status. The multi-family use has existed since 1986 and has not required excessive public infrastructure improvements to date, to include roads, water, wastewater, and public safety. The proposed change will benefit the existing land use by allowing opportunities for reinvestment of the property.

4. The amendment is consistent with the overall intent of the 2002 Plan and other adopted plans, codes, and ordinances.

The proposed amendment is consistent with several goals of the 2002 General Plan, such as Land Use Goal #1, "Maintain a demographically and culturally diverse sustainable community that celebrates its heritage". The existing use has operated successfully for over two decades providing housing for moderate to middle-income level families within the community. Another goal that the proposal meets is Land Use Goal #3, "Plan land uses to minimize conflicts between them". The existing use currently buffers a manufactured home park from surrounding commercial uses. Land Use Goal #4, "Encourage development patterns that use land in an efficient and sustainable manner" is also met by the proposal. The subject property is within close proximity not only to I-10 and regional retail, but to existing and proposed employment areas located to the east on Eliseo C Felix Jr Way. Residents can walk to employment, retail, and public transit line drop off and pick up locations.

#### **RECOMMENDATION:**

The City Council should conduct a public hearing and adopt the Resolution approving application PL-11-0046, a request to amend the General Plan Land Use Map for approximately 6.79 acres from Medium High Density Residential to Multi-Family Residential.

#### **PROPOSED MOTION:**

I move that the City Council accept the findings and adopt a resolution approving application PL-11-0046, a request to amend the 2002 General Plan Land Use Map for approximately 6.79 acres from Medium High Density Residential to Multi-Family Residential.

#### **ATTACHMENTS:**

##### **Click to download**

- [📄 Exhibit A - Current General Plan Land Use Map](#)
- [📄 Exhibit B - Proposed General Plan Land Use Map](#)
- [📄 Exhibit C - Zoning Vicinity Map](#)
- [📄 Exhibit D - Aerial Photograph](#)
- [📄 Exhibit E - Site Plan](#)
- [📄 Exhibit F - Summary of Related Facts](#)
- [📄 Exhibit G - Project Narrative](#)
- [📄 Exhibit H - Excerpt of Draft Planning Commission Meeting minutes](#)
- [📄 Resolution 2992-711](#)

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

None

#### **PROJECT MANAGER:**

Jennifer Fostino, Zoning Specialist (623) 333-4022

City of Goodyear

DYSART R

VAN BUREN ST

DYSART ROAD

# CURRENT GENERAL PLAN

## GENERAL PLAN LAND USE DESIGNATIONS

- |  |                          |   |                                 |   |                              |
|--|--------------------------|---|---------------------------------|---|------------------------------|
|  | Freeway Commercial       |  | High Density Residential        |  | Current Land Use Designation |
|  | Commercial               |  | Medium High Density Residential |  | Subject Property             |
|  | Mixed Use                |  | Medium Density Residential      |   |                              |
|  | Employment               |  | Low Density Residential         |   |                              |
|  | Multi Family Residential |  | Rural Low Density Residential   |   |                              |
|  | Public Facilities        |  | Open Space                      |   |                              |

City of Goodyear

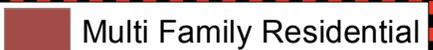
DYSART RD

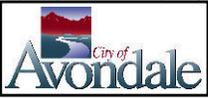
VAN BUREN ST

DYSART ROAD

# PROPOSED GENERAL PLAN

## GENERAL PLAN LAND USE DESIGNATIONS

- |  |                          |   |                                 |   |                               |
|--|--------------------------|---|---------------------------------|---|-------------------------------|
|  | Freeway Commercial       |  | High Density Residential        |  | Proposed Land Use Designation |
|  | Commercial               |  | Medium High Density Residential |  | Subject Property              |
|  | Mixed Use                |  | Medium Density Residential      |   |                               |
|  | Employment               |  | Low Density Residential         |   |                               |
|  | Multi Family Residential |  | Rural Low Density Residential   |   |                               |
|  | Public Facilities        |  | Open Space                      |   |                               |



City of Goodyear

Van Buren Street

A-1

C-2

C-2

C-2

C-2

C-2

MH

C-2

MH

A-1

R1-6

A-1

MH

Dysart Road

MH

R1-6

# ZONING VICINITY MAP

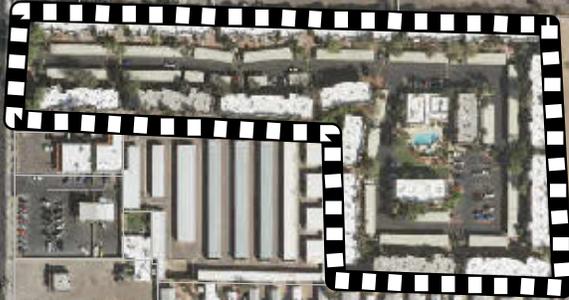


Subject Property

City of Goodyear

Van Buren Street

Dysart Road



# 2010 AERIAL PHOTOGRAPH



Subject Property



**SUMMARY OF RELATED FACTS**

**APPLICATION PL-11-0046**

<b>THE PROPERTY</b>	
PARCEL SIZE	6.79 acres
LOCATION	405 feet south of SEC Van Buren St and Dysart Rd
EXISTING LAND USE	204 unit apartment complex
EXISTING ZONING	Manufactured Home Park (MH)
ZONING HISTORY	<ul style="list-style-type: none"> <li>• The property was annexed in 1956.</li> <li>• Zoned Multi-Family (R-5) since at least 1982.</li> <li>• R-5 zoning use changed from Multi-Family to Mobile Home Park in 1990.</li> <li>• R-5 name to Manufactured Home Park (MH) in 2009.</li> <li>• Currently zoned MH.</li> </ul>
DEVELOPMENT AGREEMENT	None

<b>SURROUNDING ZONING AND LAND USE</b>	
NORTH	<ul style="list-style-type: none"> <li>• Community Commercial (C-2) – A to Z Equipment Rental &amp; Fabric Depot Shopping Center</li> </ul>
SOUTH	<ul style="list-style-type: none"> <li>• C-2 – Agua Fria Storage Solutions with attached shopping strip</li> <li>• MH – Wigwam Villa Manufactured Home Park</li> </ul>
EAST	<ul style="list-style-type: none"> <li>• C-2 – Vacant lot</li> <li>• General Industrial (A-1) – Rio Estrella Commerce Park</li> </ul>
WEST	C-2 – Avondale Shopping Center

<b>GENERAL PLAN</b>	
<p>The subject property is designated Medium High Density Residential on the 2002 General Plan Land Use Map. The application is requesting a change in designation to Multi-Family Residential. A separate application is being processed concurrently to change the zoning from MH to Multi-Family (R-4).</p>	

<b>PUBLIC SCHOOLS</b>	
SCHOOL DISTRICT(S)	Avondale Elementary School District Agua Fria Union High School District
ELEMENTARY SCHOOLS	Lattie Coor Elementary School (K-8)
HIGH SCHOOL	Agua Fria High School

## STREETS

### Dysart Road

Classification	Arterial (Interim-4 Lane)
Existing half street ROW	40.2 feet
Standard half street ROW	65 feet
Existing half street improvements	2 vehicular lanes, curb, street lights, sidewalk, and landscaping
Standard half street improvements	3 vehicular lanes, ½ median, bike lane, curb and gutter, attached sidewalk, street lights, plus deceleration lanes

## UTILITIES

- Water is served to the site by an existing 8” water line in Dysart Road and on the property.
- There is an existing 10” sewer line in Dysart Road.

## GENERAL PLAN AMENDMENT NARRATIVE

### NEWPORT APARTMENTS 1333 NORTH DYSART ROAD AVONDALE, ARIZONA



The applicant is requesting an amendment to the General Plan Land Use Map from Medium High Density Residential to Multi-Family Residential for approximately 6.79 acres south of the southeast corner of Dysart Road and Van Buren Street.

The surrounding uses are as follows:

North - A to Z Equipment Rental and Fabric Depot Plaza all zoned Community Commercial District (C-2);

South - Agua Fria Storage Solutions with attached shopping strip zoned C-2 and Wigwam Villa zoned Manufactured Home Park District (MH);

East - Empty C-2 zoned lot and Rio Estrella Commerce Park zoned General Industrial (A-1); and

West - Avondale Shopping Center zoned C-2.

The Newport Apartments were built in 1986 and have existed on this site for decades. The property serves moderate to middle-income families and provides safe and secure residential living close to area employment. The current zoning map on the Avondale website shows the property with MH zoning. The prior R-5 zoning used to include multi-family uses but this zoning classification was modified by Avondale at some point after the construction and operation of the apartment use to eliminate multi-family uses. The MH designation became the classification for mobile/manufactured home use. The use on the site is a legal nonconforming use.

The current general plan ("GP") classification as shown on the website's GP map is Medium High Density Residential (4 to 8 units/acre). In order to conform the existing use to the current general plan, the property needs to receive a Multi-Family Residential (12+ units/acre) designation. The property has an existing density of 30 units per acre (204 units divided by 6.79 acres).

#### Minor General Plan Amendment Review and Analysis Points:

1. Availability of current and future water supplies. The property has an established water service connection to the municipal system through a 6" water line which comes in from the North Dysart Road right-of-way. Avondale Public Works has indicated that they will be installing a new 6" meter in a vault in the right-of-way and that the 6" line on private property will be maintained privately. The property owner will be responsible for the installation of a 6" reduced pressure backflow prevention device. If the development seeks any additional modifications in the future to include, but not limited to, building and site improvements, or has

existing fire sprinklers, then 9 additional backflow prevention devices will be required along with potential further enhancements and inquiries. The applicant agrees to all of these requests.

2. Impact on and potential support of the City's transportation system. The project has existed since 1986 and has been functioning for decades. There is no impact on the City's transportation system from the amendment request. The property is located near area employment and therefore reduces potential commuting times for residents who may work nearby which is a goal of good transportation planning. A compact concentration of residences in a sustainable area promotes a reduction of sprawl and inefficient commuting practices. This also promotes the viability of public transportation corridors through a concentration of users in a smaller area.

3. Impact on the natural environment, including, but not limited to, hillsides, riparian areas, and floodways. These constraints do not exist on the site. The site has been developed to accommodate the requested density for decades. Compact residential development patterns reduce the potential for unnecessary sprawling development patterns. Multi-family communities can reduce infrastructure and service costs by providing economies of scale for usage.

4. Extent to which the proposal contributes to achieving the (i) job to population ratio, (ii) square foot per capita ratio, and (iii) multi-family housing ratio identified within this 2002 Plan. This application should be considered as being slightly positive in its impact in regards to the .5 jobs for every resident ratio adopted by the 2002 Plan. Properties developed at a more intensive density versus the existing medium intensity are likely to generate a higher demand for employment such as maintenance, landscaping, security, etc. This application does not impact the square foot per capita ratio as the property is already developed with a multi-family use. The development on the property achieves the target density per acre of 12 units per acre for multi-family residential uses.

5. Impact on City services and facilities including, but not limited to, police, fire, water, and wastewater. The granting of this minor general plan amendment request will have no detrimental impact upon City services and facilities. The site has been developed with a Multi-Family Residential use, the Newport Apartments, since 1986. The developed apartment use is a legal nonconforming use and City services and facilities sufficient to serve the site have existed for decades without any insufficiencies in service. There will be no need for any enhancement of City services or facilities if this request is granted. The property will continue the current legal nonconforming use but upon the granting of an approval that conforms the general plan and zoning status with the current use, the owners expect to be able to attract, more readily, reinvestment capital to make upgrades to the property and enhance the value of the property which benefits both the owners and the City.

6. Extent to which the goals of the 2002 General Plan are accomplished. This request will promote a number of the 2002 Plan's goals including the goal of preserving, enhancing and expanding the existing housing stock by providing a range of safe and sanitary housing opportunities for all Avondale residents. The Newport Apartments serve a portion of the population that needs safe quality housing in accessible areas at affordable cost which are important objectives of the housing and economic elements of the Plan. This application and

property, although an older development, serves many important 2002 Plan housing objectives such as providing safe housing free from blight and, as stated previously, the granting of this request will encourage the property owners to invest further funds in the property with the conformance of the property to the City's general plan and zoning classification. In addition, the 2002 Plan has a goal of supporting a mix of housing types and opportunities throughout the City to meet the diverse needs of residents. This 2002 Plan goal is achieved by providing housing choices for individuals in all income categories which is an objective of the 2002 Plan. This application also encourages the dispersion of housing types and values throughout the City and multi-family development at appropriate locations along major arterial streets, adjacent to employment uses which are stated multifamily housing objectives and policies of the 2002 Plan. In addition, an increased intensity of residential development close-by, but not within the freeway non-residential development corridor, is another goal of the Plan that is achieved. The proper mix and spacing of housing and employment near major transportation corridors is another objective difficult to achieve. This project is an appropriate distance (just south of Van Buren) from the growth corridor along the I-10. The proposed 2012 GP targets this site as appropriate for that plan's classification of High Density Residential which is over 12 units per acre.

Findings for Minor General Plan Amendment:

1. The development pattern contained on the Land Use Plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment. The density identified in the 2002 Plan for this area of 4 to 8 units to the acre does not respond to the current constraints affecting the employment and residential markets. A goal of the 2002 GP is to promote the enhancement of existing development and to attract new capital by providing economies and intensity to attract new capital which may help the area revitalize its activity levels and appearance. Densities of 12+ unit per acre are more appropriate near major transportation corridors which are the lifeblood of a City's future in terms of commerce and neighborhood sustainability. Locations close to major highway access are rightfully intensified regarding residential activity to more efficiently utilize travel times and economies of scale for schools, retail, office and service employment and other services. For instance, close proximity to highways would encourage nearby residents to carpool to get to major employment centers. The smaller and more intensely developed areas can provide better opportunities for options such as these. Major infrastructure systems exist in this area and can be utilized more efficiently at greater economies of scale for the operating entities and ratepayers.

2. The amendment constitutes an overall improvement to the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners. This proposed change to allow for higher density residential has been proposed by the parties undertaking the 2012 Plan amendment process. The current landowner did not participate or direct anyone to seek this intensity upgrade in the 2012 Plan. For all the already mentioned reasons, including the fact of decades-long existing higher density residential development, this change has been viewed by the City as beneficial to the City's long-term interests.

3. The amendment will not adversely impact the community as a whole and/or a portion of the community by:

a. Significantly altering the acceptable land use patterns. The higher intensity land use pattern has existed for decades on this site. The property is surrounded by the following uses: a commercial use to the north (A to Z Rentals), vacant lot to the east, commercial uses to the south in the form of a strip center with a car lot and a self-storage business. The bump up in one category from Medium High Density Residential to Multi-Family Residential is neither a new land use (as the site has been developed with this use for decades) nor detrimental as long-existing proximity has not affected the occupancy rate of the apartments and probably has helped to stabilize business activity for the nearby commercial uses.

b. Requiring larger and more expensive public infrastructure improvements, including, but not limited to, roads, water, wastewater, and public safety facilities than would otherwise be needed without the proposed change. This change will require none of these adverse impacts as the use has been existing for decades and all needed public infrastructure systems have been developed and have adequately served the property since its opening. The property is located directly on a road of regional significance (Dysart Road) and close to a major existing highway (I-10). There are no shortcomings in the road system affecting the operation of the property. Similarly, the site is served by an existing municipal water and waste system and requires no enhancements to continue operations. Existing fire and police services have been adequate to serve the development. No enhancement for such services would be generated by this amendment request.

c. Adversely impacting the existing land uses. This use has co-existed with surrounding commercial uses for many years. The relationship has not been problematic or generated complaints. The existing nonresidential uses benefit from the close proximity of customers. The residential development is internally focused as the housing units around the perimeter of the site and parking and amenities exist buffered from adjoining parcels by the structures.

4. That the amendment is consistent with the overall intent of the 2002 Plan and other adopted plans, codes, and ordinances: The 2002 Plan places emphasis on a number of matters including the appropriate intensity of development in growth areas, more efficient development patterns utilizing the benefits of proximity to major transportation routes, the provision of quality and economical housing options for residents, the promotion of smarter growth patterns such as encouraging closer proximities of employment and living environments, development patterns that promote sustainability and economies of scale for the provision of municipal services, etc. This amendment request fits into these objectives.

conflict with the current General Plan land uses. Staff is trying to strike a balance that everyone can be happy with, and that coincides with the City's desire for relatively low density development and larger lots.

Commissioner Scanlon moved to approve the withdrawal of the Estrella Foothills Specific Plan SP-08-03. Commissioner Carrillo seconded.

ROLL CALL VOTE

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

The motion carried 5-0.

**VII. PUBLIC HEARING ITEMS**

1. PL-11-0046

Mr. John DiTullio, an Attorney with Ballard Spahr LLD, is requesting to amend the 2002 General Plan Map land designation from Medium High Density Residential to Multi-Family for a 6.7 acre property. The subject site (APN# 500-24-012-B) is located 405 feet south of the southeast corner of Van Buren Street and Dysart Road and contains the Newport Apartment complex. Staff Contact: Jennifer Fostino

Jennifer Fostino, Zoning Specialist, presented a minor General Plan (GP) amendment to rezone the Newport Apartment Complex. The subject property is 6.79 acres located just south of the southeast corner of Van Buren Street and Dysart Road. The property was annexed into the City of Avondale in 1956, and the apartments were built in 1986. The property is currently zoned Manufactured Home (MH), and the use is currently legal non-conforming. The Applicant, John DiTullio, is requesting an amendment to the 2002 General Plan land use designation of Medium High-density Residential to Multi-family Residential. The property does not fall within any specific plans.

Ms. Fostino said a second request is to rezone the property from MH to Multi-family Residential zoning district R-4. Approval of the zoning application is contingent upon the approval of the minor General Plan amendment. The purpose of both applications is to bring the existing use into legal conformance. The current GP indicates that the Medium High-density Residential existing land use is intended for four to eight dwelling units per acre. The proposed Multi-family Residential land use is intended for 12 or more

## Planning Commission Regular Meeting Minutes

June 16, 2011

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dwelling units per acre. The site is built out at 204 units, or 30 units per acre, which better fits the proposed new land use. The 2002 General Plan designates 280 acres of the city for Multi-family, or about 1% of the total land. Currently there are only 245 fully developed active Multi-family acres, and the City has a need for more. The proposed designation would also serve as a buffer between the Medium High-density to the south, and the Employment to the north and east. The property is close to I-10 and several bus stops, employment, neighborhoods and regional commercial developments. If approved, the designation will promote efficiency and sustainability, which are goals of the 2002 General Plan. The amendment would not adversely impact the community, would bring the GP into conformance with the existing use, and would allow the property to rezone to R-4.

Ms. Fostino said the amendment meets all four required findings for a recommendation of approval. When the property was built, the zoning was R-5, which was the equivalent to the R-4 district today. When the current zoning ordinance was adopted in 1990, R-5 was changed to Mobile Home Park and Multi-family became to R-4. This action brought its use into non-conforming status. The designation R-5 was later changed to Manufactured Home Park (MH). The proposed R-4 is compatible with existing density. The Zoning Ordinance also states that the R-4 is intended to be located near high-activity commercial areas, which applies to the property in question. The potential exists for the apartments to be converted to a mobile home park, because as it is currently zoned. If the property is rezoned to R-4, that would no longer be possible.

Ms. Fostino said the property currently has only one entrance and one exit that are both located off Dysart Road. They join together to make a drive aisle for the remainder of the property. There have been no excessive public safety needs to date. Owners are actively working with Public Works to take over maintenance of the water infrastructure, which the City currently handles.

Ms. Fostino stated that by approving both applications, the use would be brought into conformance, but the development itself would remain legal nonconforming. A proposed stipulation for the rezoning application states that any future development on the site will conform to all current codes. By approving the minor GP amendment, the land use will comply with the existing units and provide the ability to rezone the application. Once both cases are approved, the current apartment use will be an outright permitted use, and it would be prohibited from building a manufactured home park in the future. The overall intent of the applicant, on behalf of the property owners, is to obtain legal conforming status to help secure reinvestment opportunities. The City will further achieve the overall intent of the 2002 General Plan. Staff has received no public comments regarding this application.

Chris Schmaltz, Legal Counsel, recommended that approval come in the form of two individual motions following two public hearings.

**Planning Commission Regular Meeting Minutes**

**June 16, 2011**

**Page 5 of 7**

Chairman Long opened the public hearing, but no citizens wished to speak. Upon closing the public hearing, Chair Long invited further discussion, and hearing none, called for a vote.

Commissioner Scibienski moved to accept the findings and recommend approval of application PL-11-0046, a request to amend the General Plan from Medium High-density Residential to Multi-family Residential for approximately 6.79 acres located south of the southeast corner of Van Buren Street and Dysart Road. Commissioner Iwanski seconded.

**ROLL CALL VOTE**

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

The motion carried 5-0.

**2. PL-11-0045**

Mr. John DiTullio, an Attorney with Ballard Spahr LLD, is requesting to rezone from MH (Manufactured Home Park) to R-4 (Multi-Family) zoning district for a 6.7 acre property. The subject site (APN# 500-24-012-B) is located 405 feet south of the southeast corner of Van Buren Street and Dysart Road and contains the Newport Apartment complex. Staff Contact: Jennifer Fostino

Commissioner Scibienski noted that Condition 3 stipulates that the property owner shall assume responsibility for onsite water and construction maintenance through installation of a six-inch backflow prevention device at their cost. He felt that the language was vague and should include a timeline for the installation. Ms. Fostino agreed that it is vague and explained that Public Works currently does not have a timeline for installing a six-inch line in the public right-of-way. Staff felt that it should be stipulated to ensure the property owner continues working with the Public Works Department. Commissioner Scibienski suggested amending the condition to say that the work would be done on the City's timeline.

Commissioner Scanlon noted that the last phrase says that the work would be done as determined by the City Engineer. Commissioner Scibienski suggested a change to Condition 3 to clarify the language:

**RESOLUTION NO. 2992-711**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE GENERAL PLAN REGARDING THE LAND USE DESIGNATION OF APPROXIMATELY 6.79 ACRES LOCATED EAST OF DYSART ROAD AND SOUTH OF VAN BUREN STREET AS SHOW IN FILENAME PL-11-0046.

**WHEREAS**, the City of Avondale General Plan (the “General Plan”) was adopted by the Mayor and Council of the City of Avondale (the “City Council”) on June 17, 2002, and ratified by the qualified electors of the City of Avondale (the “City”) on September 10, 2002; and

**WHEREAS**, the General Plan establishes the authority and procedures for amendments to the General Plan land use designations; and

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City has given notice to and provided the opportunity for comment on the amendment to the General Plan to all neighboring cities, Maricopa County, the Maricopa Association of Governments, the Arizona Department of Commerce, all local school districts and the Gila River Indian Community; and

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City has consulted with, advised and provided the opportunity for public comment on the amendment to the General Plan; and

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City Planning and Zoning Commission (i) held a public hearing in the City Council Chambers on June 16, 2011, on the proposed General Plan amendment and (ii) provided notice of such hearing by publication of said notice in the *West Valley View* on May 31, 2011; and

**WHEREAS**, pursuant to the General Plan, the City Council (i) held a public hearing in the City Council Chambers on the proposed General Plan amendment on July 18, 2011 and (ii) provided notice of such hearing by publication of said notice in the *West Valley View* on June 24, 2011; and

**WHEREAS**, the City Council finds and determines that (i) proper notice has been given in a manner required by ARIZ. REV. STAT. § 9-461 *et seq.* of the proposed General Plan amendment and (ii) each of the required publications have been made in the *West Valley View*, a newspaper of general circulation in the City; and

**WHEREAS**, the City Council desires to amend the General Plan to change the land use designation for approximately 6.79 acres of real property generally located east of Dysart Road and south of Van Buren Street from “Medium High Density Residential” to “Multi-Family Residential.”

**NOW, THEREFORE, BE IT RESOLVED** BY THE 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 General Plan is hereby amended to change the land use designation for approximately 6.79 acres of real property generally located east of Dysart Road and south of Van Buren Street, as shown in filename PL-11-0046, as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference, from “Medium High Density Residential” to “Multi-Family Residential.”

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

**PASSED AND ADOPTED** by the Council of the City of Avondale, July 18, 2011.

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

ATTEST:

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

APPROVED AS TO FORM:

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

EXHIBIT A  
TO  
RESOLUTION NO. 2992-711

[General Plan Amendment Legal Description and Map]

See following page.

ORDER NO.: 10100455

POLICY NO.: O-9401-320715

Exhibit A

That portion of the Northwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Commencing at the Northwest corner of said Section 11;

Thence South, along the West line of said Section 11, a distance of 440.00 feet;

Thence South 88 degrees 41 minutes 53 seconds East, a distance of 40.01 feet to a point on the East line of the West 40 feet of the Northwest quarter of the Northwest quarter of said Section 11 and the True Point of Beginning;

Thence continuing South 88 degrees 41 minutes 53 seconds East, a distance of 950.24 feet;

Thence South, a distance of 474.00 feet to the Southeast corner of that certain parcel of land described in instrument recorded in Docket 14968, page 236, records of Maricopa County, Arizona;

Thence North 88 degrees 41 minutes 53 seconds West, along the South line of said parcel of land, a distance of 396.10 feet;

Thence North, a distance of 279.00 feet;

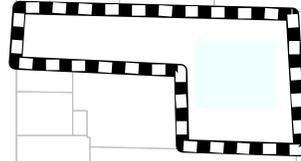
Thence North 88 degrees 41 minutes 53 seconds West, a distance of 554.14 feet to a point on the East line of the West 40 feet of the Northwest quarter of the Northwest quarter of said Section 11;

Thence North, along said East line, a distance of 195.00 feet to the True Point of Beginning;

Except that portion thereof, if any, lying within the East half of the East half of the Northwest quarter of the Northwest quarter of said Section 11.

Van Buren Street

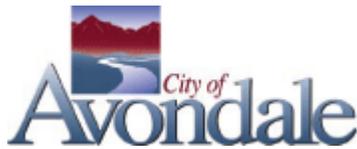
Dysart Road



# VICINITY MAP



Subject Property



# DEVELOPMENT SERVICES

**SUBJECT:**  
Public Hearing and Ordinance 1465-711 –  
Rezoning for Newport Apartments (PL-11-0045)

**MEETING DATE:**  
July 18, 2011

**TO:** Mayor and Council  
**FROM:** Sue McDermott, Development Services Director/City Engineer (623) 333-4211  
**THROUGH:** Charlie McClendon, City Manager

---

**REQUEST:** Rezoning Newport Apartments from MH to R-4

**PARCEL SIZE:** Approximately 6.79 acres

**LOCATION:** South of the southeast corner of Van Buren Street and Dysart Road

**APPLICANT:** Mr. John DiTullio, Attorney with Ballard Spahr LLD 602-798-5421

**OWNER:** ALR Arizona Apartments JVI, LLC (312) 983-7091

**BACKGROUND:**

The subject property was annexed into the City in 1956. The 1982 zoning map shows the property zoned Multi-Family (R-5). The property was then built with a 204 unit apartment complex named Newport Apartments in 1986. By 1990 the City of Avondale adopted a new Zoning Ordinance that changed the R-5 use to Mobile Home Park. This change resulted in the property becoming a legal nonconforming use.

Recently, an amendment to Section Two, Residential Zoning Districts, of the Zoning Ordinance was adopted in 2009 changing the name of the Mobile Home Park district (R-5) to MH. This is now the current zoning of the subject property.

The current General Plan Land Use designation is Medium High Density Residential (Exhibit A). A Minor General Plan Amendment, PL-11-0046, has been submitted to change the land use designation to Multi-Family Residential (Exhibit B). This application cannot be approved without approval of PL-11-0046.

**SUMMARY OF REQUEST:**

1. Requesting a rezoning from MH to R-4 (Exhibit G) to bring the current use into legal conforming status, while the development remains legal nonconforming.
2. If the concurrent Minor General Plan Amendment is not approved, then the Rezoning application will not meet the intent of the General Plan; therefore it cannot be approved.

**PARTICIPATION:**

On April 29, 2011 the applicant sent letters to 36 property owners whose parcels were located within 500 feet of the subject property inviting them to a neighborhood meeting held on May 31, 2011. The notice was published in the West Valley View on May 10, 2011. The property was posted on May 5, 2011. There were no attendee's at the neighborhood meeting.

On June 1, 2011 letters were mailed to the 36 property owners whose parcels were located within 500 feet of the subject property notifying them of the Planning Commission meeting on June 16, 2011. No additional comments on the proposal have been received. The Planning Commission hearing notice was published in the West Valley View on May 31, 2011. On May 25, 2011 the sign was updated to reflect the date and time of the Planning Commission meeting.

On June 17, 2011 letters were mailed to the 36 property owners whose parcels were located within 500 feet of the subject property notifying them of the City Council meeting on July 18, 2011. No additional comments on the proposal have been received. The City Council notice was published in the West Valley View on June 24, 2011. On June 22, 2011 the sign was updated to reflect the date and time of the City Council meeting.

All notifications included information to discuss both proposals, the Minor General Plan Amendment, PL-11-0046, and the Rezoning, PL-11-0045.

The Planning Division has received no opposition from the public concerning this application request.

### **PLANNING COMMISSION ACTION:**

The Planning Commission conducted a public hearing on June 16, 2011, and voted 5-0 to recommend approval of this request subject to the following stipulations (Exhibit H):

1. The development shall be in substantial conformance with the application narrative date stamped May 31, 2011.
2. All new onsite development and modifications, not directly pertaining to reconstructing existing development, will conform to all current applicable development and design standards contained in the Zoning Ordinance, Design Manual for Commercial, Industrial, and Multi-Family Residential Development, General Engineering Requirements Manual, and other City documents.
3. The property owner shall assume responsibility for onsite water infrastructure maintenance and the installation of a 6" backflow prevention device at their cost. Any future development enhancements and/or modifications can potentially result in further infrastructure improvements to the site. All of the above as determined by the City Engineer.

Planning Commission had a concern in regards to stipulation three being too vague and wanted to include a timeline for the installation. Staff agreed, but unfortunately Avondale Public Works does not currently have a timeline for the work the City will be responsible for in the right-of-way in order for the property owner to complete their portion; therefore a specific timeline cannot be dictated.

The recommendation was to move forward with approval based on separating the last sentence in stipulation three to two separate sentences. This will ensure that the City Engineer will have the determining factor as to when the property owner will need to move forward with their modifications.

Vice Chair Cotera and Commissioner Amos were excused from the meeting.

### **ANALYSIS:**

The subject property has been developed since 1986 as a 204 dwelling unit apartment complex named Newport Apartments. The current zoning MH allows for a Manufactured Home Park with a density of 7 dwelling units per acre, while the proposed R-4 zoning allows apartments with a density of 12 or more dwelling units or more per acre. The site is built out at 30 dwelling units per acre.

The property owner has also submitted a Minor General Plan Amendment to change the land use from Medium High Density Residential to Multi-Family Family Residential. The current land use is intended to accommodate 4-8 dwelling units per acre, with a target density of 4 units per acre. The

proposed land use density objective is 12 or more units per acre, with a target of 12 units per acre. The Multi-Family designation is designed for apartment uses, while Medium High Density is geared more towards single-family residential homes. The proposed R-4 zoning coincides with the proposed land use and the intent of the General Plan. If the Minor General Plan Amendment is not approved, then this Rezoning application cannot either.

Approving both applications will bring the use into conformance, while the development remains legal nonconforming (Exhibit I). Section 1 of the Zoning Ordinance states that if any building or structure that lawfully exists on the effective date of this ordinance, but which could not be built under the terms of this ordinance because it does not meet lot coverage, height, setback, or other development standards shall be considered a non-conforming building/structure. The buildings/structures may only receive alterations for routine repair or maintenance, damage done by calamity, or permitted additions that meet all current City code.

As for the use, Section 1 of the Zoning Ordinance states that a non-conforming use cannot expand building or land area and may rebuild existing standards due to damage by calamity within twelve months. It also states that if the use has been discontinued for one year it may not be re-established and all future uses must conform to current zoning. If both applications are approved, the use will no longer be limited by the expansion and time constraints. Also, if the use ever does cease for over a year, it can be re-established as an apartment complex and not a manufactured home park, which is what the current zoning allows.

Currently the water infrastructure onsite is maintained by the City of Avondale. The property owner is working with Avondale Public Works to take over these responsibilities. The City will be installing a new 6 inch water meter in the vault in the right-of-way while the property owner will be responsible for installing a 6 inch reduced pressure backflow prevention device on their property. If the development seeks any new modifications in the future to include, but not limited to, building and site improvements, then nine additional backflow prevention devices will be required, along with potential further enhancements and inquiries. Since there is no new development proposed, no additional burdens on the existing sewer and drainage systems are anticipated at this time.

The development serves as a buffer between a manufactured home park and commercial uses. It is within close proximity to Interstate 10 (I-10) access, neighborhood commercial, regional retail, business parks, and employment. Section 2 of the Zoning Ordinance states that R-4 is intended to be located near high activity commercial areas within the City. The location of the development meets this intent.

The overall intent for the property owner is to obtain the legal status versus the legal nonconforming status of the use. This will enhance efforts to gain re-investment opportunities for the enhancement of the development. By approving both applications, the City has further achieved the overall intent of the 2002 General Plan by using development patterns to promote efficiency and sustainability. Newport Apartments has operated successfully for over two decades and continues to offer a great alternative living style close to amenities for the moderate income level citizens in Avondale. Approving both applications will benefit not only the property owners, but the City of Avondale and its citizens as well.

#### **RECOMMENDATION:**

The City Council should conduct a public hearing and adopt the Ordinance approving application PL-11-0045, a request to rezone approximately 6.79 acres from MH to R-4 with three conditions of approval.

#### **PROPOSED MOTION:**

I move that the City Council adopt an ordinance accepting the findings and approving application PL-11-0045, a request to rezone approximately 6.79 acres from MH to R-4 with three conditions of approval.

## **ATTACHMENTS:**

### **Click to download**

- 📄 [Exhibit A - Current General Plan Land Use Map](#)
- 📄 [Exhibit B - Proposed General Plan Land Use Map](#)
- 📄 [Exhibit C - Zoning Vicinity Map](#)
- 📄 [Exhibit D - Aerial Photograph](#)
- 📄 [Exhibit E - Site Plan](#)
- 📄 [Exhibit F - Summary of Related Facts](#)
- 📄 [Exhibit G - Rezoning Project Narrative](#)
- 📄 [Exhibit H - Excerpt of Draft Planning Commission Meeting minutes](#)
- 📄 [Exhibit - Existing Conditions Compatibility Chart](#)
- 📄 [Ordinance 1465-711](#)

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

None

### **PROJECT MANAGER:**

Jennifer Fostino, Zoning Specialist (623) 333-4022

City of Goodyear

DYSART R

VAN BUREN ST

DYSART ROAD

# CURRENT GENERAL PLAN

## GENERAL PLAN LAND USE DESIGNATIONS

- |  |                          |   |                                 |   |                              |
|--|--------------------------|---|---------------------------------|---|------------------------------|
|  | Freeway Commercial       |  | High Density Residential        |  | Current Land Use Designation |
|  | Commercial               |  | Medium High Density Residential |  | Subject Property             |
|  | Mixed Use                |  | Medium Density Residential      |   |                              |
|  | Employment               |  | Low Density Residential         |   |                              |
|  | Multi Family Residential |  | Rural Low Density Residential   |   |                              |
|  | Public Facilities        |  | Open Space                      |   |                              |



EXHIBIT B

City of Goodyear

DYSART R

VAN BUREN ST

DYSART ROAD

# PROPOSED GENERAL PLAN

## GENERAL PLAN LAND USE DESIGNATIONS

-  Freeway Commercial
-  Commercial
-  Mixed Use
-  Employment
-  Multi Family Residential
-  Public Facilities
-  High Density Residential
-  Medium High Density Residential
-  Medium Density Residential
-  Low Density Residential
-  Rural Low Density Residential
-  Open Space
-  Proposed Land Use Designation
-  Subject Property



City of Goodyear

Van Buren Street

A-1

C-2

C-2

C-2

C-2

C-2

MH

C-2

MH

A-1

R1-6

A-1

MH

Dysart Road

MH

R1-6

# ZONING VICINITY MAP

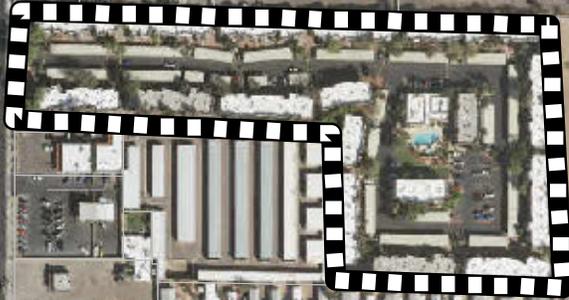


Subject Property

City of Goodyear

Van Buren Street

Dysart Road



# 2010 AERIAL PHOTOGRAPH



Subject Property



*SUMMARY OF RELATED FACTS*

*APPLICATION PL-11-0045*

<i>THE PROPERTY</i>	
PARCEL SIZE	6.79 acres
LOCATION	405 feet south of SEC Van Buren St and Dysart Rd
EXISTING LAND USE	204 unit apartment complex
EXISTING ZONING	Manufactured Home Park (MH)
ZONING HISTORY	<ul style="list-style-type: none"> <li>• The property was annexed in 1956.</li> <li>• Zoned Multi-Family (R-5) since at least 1982.</li> <li>• R-5 zoning use changed from Multi-Family to Mobile Home Park in 1990.</li> <li>• R-5 name to Manufactured Home Park (MH) in 2009.</li> <li>• Currently zoned MH.</li> </ul>
DEVELOPMENT AGREEMENT	None

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	<ul style="list-style-type: none"> <li>• Community Commercial (C-2) – A to Z Equipment Rental &amp; Fabric Depot Shopping Center</li> </ul>
SOUTH	<ul style="list-style-type: none"> <li>• C-2 – Agua Fria Storage Solutions with attached shopping strip</li> <li>• MH – Wigwam Villa Manufactured Home Park</li> </ul>
EAST	<ul style="list-style-type: none"> <li>• C-2 – Vacant lot</li> <li>• General Industrial (A-1) – Rio Estrella Commerce Park</li> </ul>
WEST	C-2 – Avondale Shopping Center

<i>GENERAL PLAN</i>	
<p>The subject property is designated Medium High Density Residential on the 2002 General Plan Land Use Map. The application is requesting a change in designation to Multi-Family Residential. A separate application is being processed concurrently to change the zoning from MH to Multi-Family (R-4).</p>	

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Avondale Elementary School District Agua Fria Union High School District
ELEMENTARY SCHOOLS	Lattie Coor Elementary School (K-8)
HIGH SCHOOL	Agua Fria High School

*STREETS*

**Dysart Road**

Classification	Arterial (Interim-4 Lane)
Existing half street ROW	40.2 feet
Standard half street ROW	65 feet
Existing half street improvements	2 vehicular lanes, curb, street lights, sidewalk, and landscaping
Standard half street improvements	3 vehicular lanes, ½ median, bike lane, curb and gutter, attached sidewalk, street lights, plus deceleration lanes

*UTILITIES*

- Water is served to the site by an existing 8” water line in Dysart Road and on the property.
- There is an existing 10” sewer line in Dysart Road.

**PROJECT NARRATIVE****REZONING FROM R-5 TO R-4 FOR NEWPORT APARTMENTS  
1333 NORTH DYSART ROAD  
AVONDALE, ARIZONA**

This application is for a rezoning of property from MH to R-4 for multi-family. MH is for mobile/manufactured home use and the property has an existing legal nonconforming apartment use.

1.a. Describe unusual physical features or characteristics of the site which present opportunities or constraints to development. The site contains no unusual or extraordinary features and the existing multi-family development has existed on the site for decades (since 1986) serving moderate income residents and families with quality affordable housing near areas of employment and close to the major transportation corridors of Dysart Road and the Interstate Route 10.

1.b. Identification of flood zones and other significant natural or manmade features such as rivers, canals, washes, wells, reservoirs, etc. The site is Flood Zone X which is an area that is determined to be outside the 100- and 500-year floodplains and not a special flood hazard designation. The site contains no significant natural, manmade or other environmental features.

2. Type of development and uses proposed by this zoning request. The existing land use is single and two-story multi-family apartments. The site is developed with 8 studio apartments, 72 one bedroom apartments and 124 two bedroom apartments. The project also contains a pool and other usual and customary auxiliary structures associated with a multifamily apartment project.

3. Consistency with the General Plan. The rezoning request has been accompanied with a Minor General Plan Amendment request to modify the general plan designation from Medium High Density Residential to Multi-Family Residential. This request will modify the 2002 General Plan designation for the property. This request will promote a number of the 2002 Plan's goals including the goal of preserving, enhancing and expanding the existing housing stock by providing a range of safe and sanitary housing opportunities for all Avondale residents. The Newport Apartments serve a portion of the population that needs safe quality housing in accessible areas at affordable cost which are important objectives of the housing and economic elements of the Plan. This application and property, although an older development, serves many important 2002 Plan housing objectives such as providing safe housing free from blight and, as stated previously, the granting of this request will encourage the property owners to invest further funds in the property with the conformance of the property to the City's general plan and zoning classifications. In addition, the 2002 Plan has a goal of supporting a mix of housing types and opportunities throughout the City to meet the diverse needs of residents. This 2002 Plan goal is achieved by providing housing choices for individuals in all income categories which is an objective of the 2002 Plan. This application also encourages the dispersion of housing types and values throughout the City and multi-family development at appropriate locations along major arterial streets, adjacent to employment uses which are stated multifamily housing objectives and

policies of the 2002 Plan. In addition, an increased intensity of residential development close-by, but not within the freeway non-residential development corridor, is another goal of the Plan that is achieved. The proper mix and spacing of housing and employment near major transportation corridors is another objective difficult to achieve. This project is an appropriate distance (just south of Van Buren) from the growth corridor along the I-10. The proposed 2012 Plan targets this site as appropriate for that plan's classification of High Density Residential which is over 12 units per acre.

4. Compatibility with the surrounding land use and zoning patterns. This proposed zoning will have no negative impact on the surrounding properties. The apartment project has existed for decades (since 1986) with its more commercial neighbors and has experienced no problems amongst the adjacent land users. The rezoning is compatible with the surrounding properties which are commercial (C-2), industrial (A-1) and mobile/manufactured home (MH). Specifically, to the North, there exists A to Z Equipment Rental and Fabric Depot Plaza (all C-2); to the South, there exists Agua Fria Storage Solutions with attached shopping strip zoned C-2 and Wigwam Villa zoned Manufactured Home Park District (MH); to the East, there exists a vacant C-2 zoned lot and Rio Estrella Commerce Park zoned General Industrial (A-1); and, finally, to the West, there exists the Avondale Shopping Center zoned C-2. Front yard setbacks are over 35 feet, side yard setbacks range from 6.8 feet to 17.3 feet and rear setbacks range from 13.9 feet to 14.8 feet.

5. Unique design considerations beyond Zoning Ordinance requirements that reduce development impacts and further compatibility with on-site and adjacent land uses and zoning. As a legal nonconforming use, any new modifications made to any part of the site, that are not directly related to reconstructing what currently exists, will have to adhere to the current zoning standards. The property currently contains usual and customary driveways, landscaping, utilities and amenities associated with an apartment property. There are no unusual characteristics that should affect or restrict the desirability of this rezoning request. No modification to the existing site circulation, parking, site design, drainage or architecture is being proposed.

6. Unsuitability of property as currently zoned. Rezoning to the established use is required in order to provide for certainty of an ability to rebuild the existing use and to obtain investment capital for reinvestment in the property. The apartment use was developed decades ago (1986) at a time when the then R-5 zoning designation allowed multi-family residential. After the project was constructed, the city of Avondale modified the R-5 permitted land uses to allow just primarily mobile/manufactured home (MH) use thereby making our development a legal non-conforming use. The proposed zoning is compatible with the existing use of the property as the current development on the property is a legal nonconforming use that already reflects R-4 Multi-Family densities. The existing MH zoning district is one of the most restrictive and limiting designations only allowing off-site manufactured type housing and very limited other uses as permitted, conditional or permitted with conditions uses.

7. Proposed circulation plan. The property has access from Dysart Road with 2 curb-cuts serving a half circle entrance driveway leading to a main east to west large interior drive which turns to the south, west and north connecting back to the main interior drive. The property is very close to Thomas Road and I-10 to the north. There are no changes proposed to the circulation plan.

8. Existing traffic, water, sewer and drainage systems. The site is already served by water, sewer and drainage systems which have been in place for decades. The apartment development on the property has existed since 1986 and the circulation, water, sewer and drainage systems have functioned without incident. The property has an established water service connection to the municipal system through a 6 inch water line which comes in from the North Dysart Road right-of-way. Avondale Public Works has indicated that they will be installing a new 6" meter in a vault in the right-of-way and that the 6 inch line on private property will be maintained privately. The property owner will be responsible for the installation of a 6 inch reduced pressure backflow prevention device. If the development seeks any additional modifications in the future to include, but not limited to, building and site improvements, or has existing fire sprinklers, then 9 additional backflow prevention devices will be required along with potential further enhancements and inquiries. As there is no new development proposed by the application, no additional traffic generation or additional burdens on the existing sewer and drainage systems are anticipated.

Chairman Long opened the public hearing, but no citizens wished to speak. Upon closing the public hearing, Chair Long invited further discussion, and hearing none, called for a vote.

Commissioner Scibienski moved to accept the findings and recommend approval of application PL-11-0046, a request to amend the General Plan from Medium High-density Residential to Multi-family Residential for approximately 6.79 acres located south of the southeast corner of Van Buren Street and Dysart Road. Commissioner Iwanski seconded.

**ROLL CALL VOTE**

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

The motion carried 5-0.

**2. PL-11-0045**

Mr. John DiTullio, an Attorney with Ballard Spahr LLD, is requesting to rezone from MH (Manufactured Home Park) to R-4 (Multi-Family) zoning district for a 6.7 acre property. The subject site (APN# 500-24-012-B) is located 405 feet south of the southeast corner of Van Buren Street and Dysart Road and contains the Newport Apartment complex. Staff Contact: Jennifer Fostino

Commissioner Scibienski noted that Condition 3 stipulates that the property owner shall assume responsibility for onsite water and construction maintenance through installation of a six-inch backflow prevention device at their cost. He felt that the language was vague and should include a timeline for the installation. Ms. Fostino agreed that it is vague and explained that Public Works currently does not have a timeline for installing a six-inch line in the public right-of-way. Staff felt that it should be stipulated to ensure the property owner continues working with the Public Works Department. Commissioner Scibienski suggested amending the condition to say that the work would be done on the City's timeline.

Commissioner Scanlon noted that the last phrase says that the work would be done as determined by the City Engineer. Commissioner Scibienski suggested a change to Condition 3 to clarify the language:

**Planning Commission Regular Meeting Minutes**

**June 16, 2011**

**Page 6 of 7**

"The property owner shall assume responsibility for onsite water infrastructure maintenance and the installation of a 6" backflow prevention device at their cost. Any further enhancement and/or modifications can potentially result in further infrastructure improvements to the site All of the above as determined by the City Engineer."

Commissioner Scibienski asked whether the suggested change met with the approval of the Applicant. John DiTullio, Ballard Spahr LLP, 1 East Washington St, Ste 2300, Phoenix, AZ 85004-2555, said the change would fit perfectly with the understanding that the owner has made with Public Works. Chris Schmaltz, Legal Counsel, explained that stipulations are not agreements; they are conditions of approval. In regards to the Commission's approval of the motion, it is irrelevant whether the Applicant agrees or not.

Commissioner Iwanski asked whether stipulations are negotiated between staff and applicants. Mr. Schmaltz explained that a group of standard stipulations apply to every rezoning application. The applicant always has an opportunity to respond to the language. Negotiation takes place over wordsmithing, but the applicant is always aware that stipulations are conditions of approval.

Chair Long opened the public hearing, but there were no requests to speak. Upon closing the public hearing he invited further discussion, and hearing none, called for a vote.

Commissioner Scibienski moved to accept the findings and recommend approval of application PL-11-0045, a request to rezone 6.79 acres from Manufactured Home Park (MH) to Multi-family Residential (R-4) with three conditions of approval as recommended by staff, and with Condition 3 being amended as previously noted. Commissioner Iwanski seconded.

**ROLL CALL VOTE**

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

The motion carried 5-0.

**Existing Conditions Compatibility Chart**

	<b>Existing Conditions</b>	<b>Current R-4 Standards</b>	<b>Difference</b>
Minimum Lot Area Per Unit	1,450 s.f.	1,980 s.f.	− 530 s.f.
Minimum Lot Width	195 ft.	50 ft.	+ 145 ft.
Minimum Lot Depth	235.38 ft.	100 ft.	+ 135.38 ft.
Maximum Height	30 ft.	24 ft.	+ 6 ft.
Maximum Building Coverage	28%	45%	+ 17%
Front Yard Setback	20 ft.	25 ft.	− 5 ft.
Side Yard Setback	4.7-14.9 ft.	15 ft.	− 0.1 to + 10.3 ft.
Rear Yard Setback	13.3-21.3 ft.	15 ft.	− 0.1 to + 1.7 ft.
Minimum Balcony/Patio Per Unit	73 s.f.	80 s.f.	− 7 s.f.
Usable Open Space	Estimated 10%	20%	Estimated − 10%
Covered Parking Spaces	204	204	0
Visitor Parking	70	20	+ 50
Width of Drive Isle	17-28 ft. − 1 way drive isle 23 ft. − 2 way drive isle	20 ft. 26 ft.	− 3 to + 8 ft. − 3 ft.

## **ORDINANCE 1465-711**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 6.79 ACRES LOCATED EAST OF DYSART ROAD AND SOUTH OF VAN BUREN STREET, AS SHOWN IN FILENAME PL-11-0045, REZONING SUCH PROPERTY FROM MANUFACTURED HOME PARK (MH) TO MULTIPLE FAMILY RESIDENTIAL-4 (R-4).

**WHEREAS**, the Council of the City of Avondale (the “City Council”) desires to amend the City of Avondale Zoning Atlas (the “Zoning Atlas”) pursuant to ARIZ. REV. STAT. § 9-462.04; and

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

**WHEREAS**, the Commission held a public hearing on Thursday, June 16, 2011, on the amendment to the Zoning Atlas, after which the Commission recommended approval; and

**WHEREAS**, the City Council held an additional public hearing regarding the amendment to the Zoning Atlas on July 18, 2011.

**NOW, THEREFORE, BE IT ORDAINED** BY THE 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 ± 6.79 acre parcel of real property generally located east of Dysart Road and south of Van Buren Street, as shown in filename PL-11-0045 (the “Property”), as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from Manufactured Home Park (MH) to Multiple Family Residential-4 (R-4) subject to the following stipulations:

1. The development shall be in substantial conformance with the application narrative date stamped May 31, 2011.

2. All new onsite development and modifications not directly pertaining to reconstructing existing development will conform to all current applicable development and design standards contained in the Zoning Ordinance, Design Manual for Commercial, Industrial, and Multi-Family Residential Development, General Engineering Requirements Manual, and other City documents.
3. The property owners shall assume responsibility for onsite water infrastructure maintenance and the installation of a 6” backflow prevention device at their sole cost. Any future development enhancements and/or modifications can potentially result in further infrastructure improvements to the site. All of the above as determined by the City Engineer.

SECTION 3. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

**PASSED AND ADOPTED** by the Council of the City of Avondale, July 18, 2011.

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

ATTEST:

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

APPROVED:

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

EXHIBIT A  
TO  
ORDINANCE NO. 1465-711

[Legal Description and Map]

See following pages.

ORDER NO.: 10100455

POLICY NO.: O-9401-320715

Exhibit A

That portion of the Northwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Commencing at the Northwest corner of said Section 11;

Thence South, along the West line of said Section 11, a distance of 440.00 feet;

Thence South 88 degrees 41 minutes 53 seconds East, a distance of 40.01 feet to a point on the East line of the West 40 feet of the Northwest quarter of the Northwest quarter of said Section 11 and the True Point of Beginning;

Thence continuing South 88 degrees 41 minutes 53 seconds East, a distance of 950.24 feet;

Thence South, a distance of 474.00 feet to the Southeast corner of that certain parcel of land described in instrument recorded in Docket 14968, page 236, records of Maricopa County, Arizona;

Thence North 88 degrees 41 minutes 53 seconds West, along the South line of said parcel of land, a distance of 396.10 feet;

Thence North, a distance of 279.00 feet;

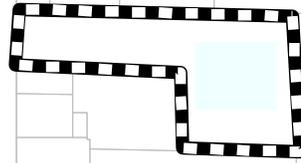
Thence North 88 degrees 41 minutes 53 seconds West, a distance of 554.14 feet to a point on the East line of the West 40 feet of the Northwest quarter of the Northwest quarter of said Section 11;

Thence North, along said East line, a distance of 195.00 feet to the True Point of Beginning;

Except that portion thereof, if any, lying within the East half of the East half of the Northwest quarter of the Northwest quarter of said Section 11.

Van Buren Street

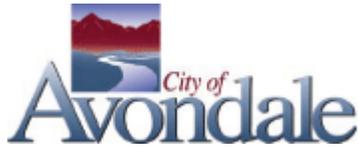
Dysart Road



# VICINITY MAP



Subject Property



# CITY COUNCIL REPORT

**SUBJECT:**  
EXECUTIVE SESSION

**MEETING DATE:**  
July 18, 2011

**TO:** Mayor and Council  
**FROM:** Andrew McGuire, City Attorney (602) 257-7664  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding (i) negotiations for a potential Economic Development Agreement, (ii) threatened litigation with respect to alarm regulations and (iii) the SLT Expressway litigation.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available