

# CITY COUNCIL AGENDA

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

REGULAR MEETING  
May 6, 2013  
7:00 PM

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

**1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK**

**2 RECOGNITION ITEMS (MAYOR PRESENTATIONS)**

a. **AVONDALE PUBLIC SAFETY LIFE SAVING AWARDS PRESENTATION**

**3 UNSCHEDULED PUBLIC APPEARANCES**

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

**4 CONSENT AGENDA**

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

a. **APPROVAL OF MINUTES**

1. Work Session of April 1, 2013
2. Regular Meeting of April 1, 2013
3. Work Session of April 8, 2013
4. Regular Meeting of April 15, 2013

b. **LIQUOR LICENSE SERIES 6 - ACQUISITION OF CONTROL - LIGHTHOUSE RESTAURANT AND LOUNGE**

City Council will consider a request from Mr. Robert Clayton for approval of an application for agent change acquisition of control of a Series 6 Bar License at the Lighthouse Restaurant and Lounge located at 12351 W Indian School Road in Avondale. The Council will take appropriate action.

c. **ACCEPTANCE OF THE SOUTHWEST VALLEY LOCAL TRANSIT SYSTEM STUDY**

City Council will consider a request to review and accept the Southwest Valley Local Transit System Study prepared by the Maricopa Association of Governments, in partnership with West Valley cities and through outreach to residents. The Council will take appropriate action.

d. **FIRST AMENDMENT TO AREA AGENCY ON AGING CONTRACT 2013-05-AVO**

City Council will consider a request to approve the first amendment to contract 2013-05-AVO with the Area Agency on Aging to increase the MCSO operations by \$1,000 and re-program \$8,000 from the Home Delivered Meal program to the Transportation program and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents. The Council will take appropriate action.

e. **CONSTRUCTION CONTRACT AWARD TO S&L DEVELOPMENTS FOR CITY DATA CENTER REMODEL**

City Council will consider a request to award a contract to S&L Development in the amount of \$111,000 for construction services to refit the City Data Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. **CONTRACT AWARD - THATCHER COMPANY FOR WATER TREATMENT CHEMICALS**

City Council will consider a request to award a one-year contract to Thatcher Company to provide chemicals for water and wastewater treatment in an amount not to exceed \$16,605, with the option of four annual one-year renewals for a total possible five-year term, and a maximum aggregate amount not to exceed \$83,025, and to authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. **COOPERATIVE PURCHASING AGREEMENT - KOVATCH MOBILE EQUIPMENT CORP. FOR LIGHT/AIR UTILITY TRUCK**

City Council will consider a request to approve a cooperative purchasing agreement with Kovatch Mobile Equipment Corp. for the purchase of a new light/air utility fire apparatus in the total amount of \$534,029.57 and authorize the Mayor or City Manager and City Clerk to execute all the necessary documents. The Council will take appropriate action.

h. **PROFESSIONAL SERVICES AGREEMENT - JENI MCCUTCHEON, PSY.D., PLLC**

City Council will consider a request to approve a Professional Services Agreement with Jeni McCutcheon Psy.D., PLLC to provide psychological testing services for police, fire and other recruitments in an amount not to exceed \$92,000 over the full term of the agreement and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

i. **PROFESSIONAL SERVICES AGREEMENT - STRATEGIC ADVISORY GROUP**

City Council will consider a request to approve a Professional Services Agreement with Strategic Advisory Group for city branding and consulting services in a maximum amount of \$90,200 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

j. **PROFESSIONAL SERVICES AGREEMENT – DICK & FRITSCHÉ DESIGN GROUP – NORTHWEST PUBLIC SAFETY FACILITY BUILDOUT**

City Council will consider a request to approve a Professional Services Agreement with Dick & Fritsche Design Group to provide architectural design services for the completion of the Northwest Public Safety Facility in the amount of \$59,097, authorize the necessary transfer and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

k. **RESOLUTION 3099-513 - OWNER-OCCUPIED HOUSING REHABILITATION PROGRAM POLICIES AND PROCEDURES**

City Council will consider a resolution adopting the amended Avondale Owner-Occupied Home Rehabilitation Program Policies and Procedures as required by the Arizona Department of Housing in order to receive a grant award in the amount of \$440,000 and authorize the Mayor or City Manager and City Clerk to execute all the necessary documents to carry the intent of this resolution. The Council will take appropriate action.

l. **RESOLUTION 3100-513 - INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT FUNDING**

City Council will consider a resolution approving an Intergovernmental Agreement with the City of Phoenix for Federal Transit Administration Funding to pass through grant funding in the amount of \$1,000,279 and authorize the Mayor and City Clerk to execute this agreement. The Council will take appropriate action.

m. **RESOLUTION 3101-513 - CHANGE ORDER TO INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR DIAL-A-RIDE SERVICES**

City Council will consider a resolution approving a change order to the Intergovernmental Agreement with the City of Phoenix for ADA required services for an estimated annual cost of \$201,457 and authorize the Mayor and City Clerk to execute the appropriate documents. The Council will take appropriate action.

n. **RESOLUTION 3102-513 - AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSIT AUTHORITY**

City Council will consider a resolution approving an Amended and Restated Intergovernmental Agreement with the Regional Public Transportation Authority for FY 2014 Zoom operations, funding for American with Disabilities Act Paratransit Services, acquisition of replacement Zoom buses and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

o. **RESOLUTION 3106-513 - ADOPTING POLICIES AND PROCEDURES FOR TAX ADVANTAGED BONDS**

City Council will consider a resolution adopting written Policies and Procedures for Tax Advantaged Bonds. The Council will take appropriate action.

p. **RESOLUTION 3103-513 - PLEDGED REVENUE REFUNDING OBLIGATIONS**

City Council will consider a Resolution approving the sale and execution and delivery of not to exceed \$12.1M of pledged revenue refunding obligations and authorizing the execution and delivery of all required documents, and authorizing all other actions necessary to proceed with the sale. The Council will take appropriate action.

q. **RESOLUTION 3104-513 - AUTHORIZING SUBMISSION OF APPLICATIONS FOR GRANT CONSIDERATION BY THE GILA RIVER INDIAN COMMUNITY**

City Council will consider a resolution authorizing the submission of applications for grant consideration by the Gila River Indian Community and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

r. **RESOLUTION 3105-513 - AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT FOR JURY MANAGEMENT SERVICES**

City Council will consider a resolution authorizing an Amendment to an Intergovernmental Agreement with the Superior Court of Arizona in Maricopa County to provide jury services for the Avondale City Court, and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

s. **ORDINANCE 1516-513 - DEDICATION OF POWER DISTRIBUTION EASEMENT TO SRP FOR CITY CENTER PHASE III PROJECT**

City Council will consider an ordinance dedicating a power distribution easement to Salt River Project Agricultural Improvement and Power District for the City Center Phase III Improvement Project and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

5 **ECONOMIC DEVELOPMENT AGREEMENT - GUNBO, LLC**

City Council will consider a request to approve an Economic Development Agreement with Gunbo, LLC regarding the construction and operation of Main Event Family Entertainment Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

6 **THIRD AMENDMENT - CONSTRUCTION MANAGER AT RISK AGREEMENT – FCI CONSTRUCTORS, INC.**

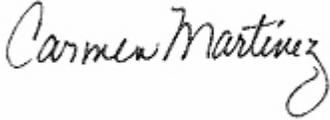
City Council will consider a request to approve the third amendment to the Construction Manager at Risk with FCI Constructors, Inc. to provide complete construction services for the completion of the Northwest Public Safety Facility in the amount of \$1,803,772, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

## 7 EXECUTIVE SESSION

- a. The Council may hold an executive session pursuant to (i) 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 negotiations for (a) a potential Lease Agreement and (b) a potential Economic Development Agreement for City Center property and (ii) pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(7) for discussion or consultation with City representatives in order to consider its position and instruct its representatives regarding negotiations for the acquisition of real property for public use.

## 8 ADJOURNMENT

Respectfully submitted,



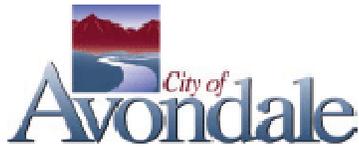
Carmen Martinez  
City Clerk

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.

Notice is hereby given that pursuant to A.R.S. § 1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council may be audio and/or video recorded and, as a result, proceedings in which children are present may be subject to such recording. Parents, in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. § 1-602.A.9 have been waived.

De acuerdo con la ley A.R.S. § 1-602.A.9, y sujeto a ciertas excepciones legales, se da aviso que los padres tienen derecho a dar su consentimiento antes de que el Estado o cualquier otra entidad política haga grabaciones de video o audio de un menor de edad. Las juntas del Concejo de la Ciudad pueden ser grabadas y por consecuencia, existe la posibilidad de que si hay menores de edad presentes éstos aparezcan en estos videos o grabaciones de audio. Los padres puedan ejercitar su derecho si presentan su consentimiento por escrito a la Secretaria de la Ciudad, o pueden asegurarse que los niños no estén presentes durante la grabación de la junta. Si hay algún menor de edad presente durante la grabación, la Ciudad dará por entendido que los padres han renunciado sus derechos de acuerdo a la ley contenida A.R.S. § 1-602.A.9.



# CITY COUNCIL REPORT

**SUBJECT:**  
Avondale Public Safety Life Saving Awards  
Presentation

**MEETING DATE:**  
May 6, 2013

**TO:** Mayor and Council  
**FROM:** Pier Simeri, Community Relations and Public Affairs Director (623) 333-1611  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The City Council will publicly recognize and commend five individuals for the special roles they played in saving the lives of an Avondale grandmother and her 3-year-old granddaughter on March 30, 2013.

**BACKGROUND:**

On March 30, 2013 around 12:30 p.m., a 3-year old child fell into one of the lakes at Crystal Gardens. Both the child and her 59-year-old grandmother, who jumped in to save her, would have drowned, had it not for the actions of civic-minded residents and Avondale public safety personnel who arrived at the scene. From the 911-caller, to the neighbor who jumped into the water and others who helped pull the victims out, to the police officer and the off-duty nurse who performed life saving techniques, the actions of several individuals that day contributed to a happy outcome.

**DISCUSSION:**

The Public Safety Life Saving Award is only presented in special cases where clear acts of heroism and quick-thinking have resulted in saving the life or lives of others.

This recognition comes one week before National Emergency Medical Service/Systems Week (May 19-25). While the end of the emergency medical system is obviously the care provided by the talented doctors, nurses and staff at the local emergency room or regional trauma center it relies on a variety of other roles to support a successful patient outcome. These include the ambulance and/or helicopter crews necessary to provide rapid and safe transport to the medical facility; fire-rescue paramedics and EMTs to provide pre-hospital advanced life support intervention and stabilization; police officers and other first responders who provide initial care and treatment; and citizens who are willing and able to act and provide immediate intervention.

All these parts working together are crucial for an effective system - and were all in place on March 30 of this year resulting in a positive outcome. This incident resulting in the recovery of the child and her grandmother should inspire all residents to learn basic first aid and CPR and become a part of our emergency medical system.

Tonight's presentation will recognize five individuals in particular, who have been singled out to receive the Avondale Public Safety Life Saving Award. They are:

- *Avondale Police Officer Ryan Myers* -- Officer Myers arrived on scene and upon discovering that the female victim had no pulse, performed CPR until Fire-Rescue personnel arrived.
- *Clayton Schaff* -- Mr. Schaff noticed a woman in the water, and jumped in, only to discover the child under the grandmother.

- *John Dang and Theresa Brennan* -- both were in the area and helped pull the victims from the water.
- *Beth Pearson* -- Ms. Pearson, an off-duty nurse, performed CPR on the lifeless child, who responded and started breathing again on scene.

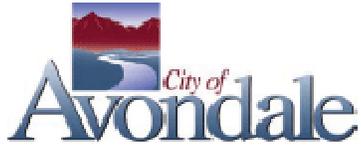
**RECOMMENDATION:**

Police Chief Kevin Kotsur and Fire Chief Paul Adams will present the Avondale Public Safety Life Saving Award to the deserving individuals.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**  
APPROVAL OF MINUTES

**MEETING DATE:**  
May 6, 2013

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

**PURPOSE:**

1. Work Session of April 1, 2013
2. Regular Meeting of April 1, 2013
3. Work Session of April 8, 2013
4. Regular Meeting of April 15, 2013

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Liquor License Series 6 - Acquisition of Control -  
Lighthouse Restaurant and Lounge

**MEETING DATE:**

May 6, 2013

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

**PURPOSE:**

Staff is recommending approval of a request from Mr. Robert Clayton for agent change acquisition of control of a Series 6 Bar License at the Lighthouse Restaurant and Lounge located at 12351 W Indian School Road in Avondale.

**DISCUSSION:**

The City Clerk's Department has received an application from Robert Clayton for an agent change acquisition of control of a Series 6 Bar License at the Lighthouse Restaurant and Lounge due to changes in the ownership of the establishment. The required fees totaling \$1,050.00 have been paid.

The Arizona Department of Liquor License and Control has accepted the submitted application as complete. As required by state law and city ordinance, the application was posted at the location for the required period of time starting April 9, 2013 and a notice was published in the West Valley View on April 26 and 30, 2013. No comments have been received.

The Development Services, Police, and Fire Departments have reviewed the application and are recommending approval. While not required by the ordinance, the application was also reviewed by the Finance Department which has determined that the business is in good financial standing with the City. Department comments are attached.

**RECOMMENDATION:**

Staff is recommending approval of a request from Mr. Robert Clayton for agent change acquisition of control of a Series 6 Bar License at the Lighthouse Restaurant and Lounge located at 12351 W Indian School Road in Avondale.

**ATTACHMENTS:**

Click to download

- [Application](#)
- [Review by Departments](#)
- [Posting photos](#)
- [Vicinity Map](#)

# ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor  
Phoenix AZ 85007-2934

www.azliquor.gov  
(602) 542-5141

SEE  
AMENDMENT

## APPLICATION FOR AGENT CHANGE - ACQUISITION OF CONTROL - RESTRUCTURE

Check  
Appropriate  
Box

Agent Change  
Complete Sections 1,2,3,4,6  
(See Note 1 on back)

Acquisition of Control  
Complete Sections 1,2, (3,4 if changing Agent), 6

Restructure  
Complete Sections 1,2,(3,4 if changing Agent), 5,6  
(See Note 2 on back)

### SECTION 1 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

1. Name (INDIVIDUAL OR EXISTING AGENT (if no agent change) OR NEW AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER)

CLAYTON ROBERT ARNOLD 06070108  
Last First Middle Liquor License #

2.  Corporation  L.L.C.  N/A: Lighthouse Restaurant + Lounge Corporation Corp. File #: 01842217  
(Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: Lighthouse Restaurant + Lounge Corporation  
(Exactly as it appears on license)

4. Business Address: 12351 W. Indian School Rd AVONDALE MARICOPA 85392  
(Do not use P.O. Box Number) City COUNTY Zip

5. Is the business located within the incorporated limits of the above city or town?  Yes  No

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

7. Business Phone: (623) 935-2471 Residence Phone: \_\_\_\_\_

8. Does this transaction involve the sale of any portion of the corporate stock?  YES  NO  N/A If yes, submit a certified copy of minutes.

9. Has there been any change of officers?  YES  NO  N/A If yes, submit a certified copy of minutes.

### SECTION 2 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

Each person listed in Section II must submit a personal questionnaire (Form LIC0101) and a Department approved fingerprint card which may be obtained at the Dept. A person appearing in both lists need only submit one questionnaire and fingerprint card.

1. List individual owner or partners or all directors, officers in corp., members in LLC:

Last	First	Middle	Title	Residence Address	City State Zip
CLAYTON	ROBERT	ARNOLD	President		
			Secretary		
			Treasurer		

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

2. List stockholders or controlling members owning 10% or more of Corp/LLC:

Last	First	Middle	% Owned	Residence Address	City State Zip
CLAYTON	ROBERT	ARNOLD	100		

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

Disabled individuals requiring special accommodations please call the Department

Date Received 03-15-2013  
CSR JB



1. If the corporation/L.L.C. is owned by another entity, ATTACH AN OWNERSHIP AND DIRECTOR / OFFICER / MEMBER DISCLOSURE for the parent entity. Attach additional sheets as necessary in order to disclose real people.

As an Agent, will you be physically present and operating the licensed premises?  YES  NO

If you answered YES, you must provide proof of attendance of a Department approved Liquor Law Training Course within the last five years before your application for Agent can be submitted. If "no" a manager with approved training must be submitted.

SECTION 4 (COMPLETE THIS SECTION FOR AGENT CHANGE)

To be completed by the INDIVIDUAL OR EXISTING AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER:

1. License Number: \_\_\_\_\_ Date of last renewal: \_\_\_\_\_

2. Current Licensee or Agent: \_\_\_\_\_  
(Exactly as it appears on license) Last First Middle

I, \_\_\_\_\_, hereby consent to the agent appointment named herein and agree to immediately assign a new agent in the event of the death, resignation, or discharge of this agent. I also understand that if the background report shows that I, the corporation, or any officer, director, member, or stockholder have been convicted of a felony in the past five (5) years, I will immediately surrender the license to the Arizona Department of Liquor Licenses and Control and hereby waive all rights to appeal such action.

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

X \_\_\_\_\_ The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
(Signature of INDIVIDUAL/ CORPORATE/CLUB OFFICER/MEMBER) Day Month Year

My commission expires on: \_\_\_\_\_  
(Signature of NOTARY PUBLIC)

SECTION 5 (COMPLETE THIS SECTION FOR RESTRUCTURE)

Is there more than one licensed premises involved?  YES  NO If yes, SEPARATE APPLICATIONS must be filed and fees paid for each license/location.

Type of current ownership:

- J.T.W.R.O.S.
 INDIVIDUAL
 PARTNERSHIP
 CORPORATION
 LIMITED LIABILITY CO.
 TRUST
 OTHER Explain \_\_\_\_\_

Type of new ownership:

- J.T.W.R.O.S.
 INDIVIDUAL
 PARTNERSHIP
 CORPORATION
 LIMITED LIABILITY CO.
 TRUST
 OTHER Explain \_\_\_\_\_

SECTION 6 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

To be completed by INDIVIDUAL OR EXISTING AGENT (if no agent change) OR NEW AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER as listed in Question 1 Section 1:

I, ROBERT ARNOLD CLAYTON, hereby declare that I am the APPLICANT filing this application.  
(Print full name)

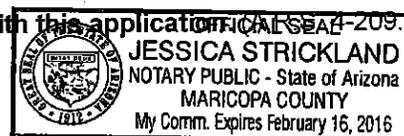
have read the application and the contents and all statements are true, correct and complete.

X Robert Clayton State of ARIZONA County of MARICOPA  
(Signature of INDIVIDUAL OR AGENT) The foregoing instrument was acknowledged before me this 15 day of MARCH 2013  
Day Month Year

My commission expires on: Feb 16 2016  
(Signature of NOTARY PUBLIC)

NOTE 1: The fee for an agent change MUST be submitted with this application: \$100.00 for the first application and \$50.00 for each additional application, not to exceed \$1,000.00. (A.R.S. 4-209.H)

NOTE 2: The \$100.00 fee for restructure/acquisition of control MUST be submitted with this application.



10 MAR 15 10:00 AM Dept PM 206

Minutes of The Lighthouse Restaurant and Lounge Corporation

January 8<sup>th</sup> 2012

Time 11 AM

Place : Robert Clayton's Home

Writer: Robert Clayton

1. The purpose of the writing
  - 1.1 To discuss and write about the year 2011
2. Discussion:
  - 2.1 The owners of the Lighthouse Restaurant and Lounge Corporation Arnold and Olive Clayton and Vice President James Clayton have died. The Lighthouse Restaurant and Lounge Corporation became part of the estate of *The Clayton family trust, dated July 11<sup>th</sup> 1991*. Robert Clayton trustee.
  - 2.2 In February 2011 trust members Sharon Willis, Norman Clayton and Kathy Clayton filed a law suit against Robert Clayton who was agent for the Lighthouse Restaurant and Lounge Corporation for ownership of the Lighthouse Restaurant and Lounge Corporation.
  - 2.3 As settlement Robert Clayton purchased the Lighthouse Restaurant and Lounge from *The Clayton family trust Dated July 11<sup>th</sup> 1991* from Sharon Willis, Norman Clayton and Kathy Clayton on July 15<sup>th</sup> 2011. Each was paid a sum for \$75,000.
  - 2.4 Robert Clayton is Agent for The Lighthouse Restaurant and Lounge and sole owner of the Corporation Robert Clayton is also the President, Vice President, Secretary, Treasurer and Director of the Lighthouse Restaurant and Lounge. Robert Clayton owns 100 percent of the Stocks issued.
  - 2.5 Changes in corporate owner and officers were reported to Arizona Corporation Commission in the annual report dated 1/17/2012.
  - 2.6 For the year sales were \$571,079 making it the worst year since 2004.
3. Adjournment of Session
  - 3.1 The session ended 11:30



Robert Clayton

10 FEB 15 09:49 AM '05



WEB FORM COPY

STATE OF ARIZONA CORPORATION COMMISSION CORPORATION ANNUAL REPORT & CERTIFICATE OF DISCLOSURE



03742488

DUE ON OR BEFORE 01/25/2012

FILING FEE \$45.00

PLEASE READ ALL INSTRUCTIONS. The following information is required by A.R.S. §§10-1022 & 10-11622 for all corporations organized pursuant to Arizona Revised Statutes, Title 10. The Commission's authority to prescribe this form is A.R.S. §§ 10-121(A) & 10-312(A). YOUR REPORT MUST BE SUBMITTED ON THIS ORIGINAL FORM. Make changes or corrections where necessary. Information for the report should reflect the current status of the corporation.

-0184221-7

- 1. LIGHTHOUSE RESTAURANT & LOUNGE CORPORATION 12351 W INDIAN SCHOOL RD AVONDALE, AZ 85323

RECEIVED JAN 17 2012

Business Phone: (602) 955-3477

(Business phone is optional)

State of Domicile: ARIZONA

Type of Corporation: PROFIT

ARIZONA CORP. COMMISSION CREATION DIVISION

2.

Statutory Agent: ROBERT CLAYTON Mailing Address: City, State, Zip:

Statutory Agent's Street or Physical Address, if Different. Physical Address: City, State, Zip:

AGG USE ONLY Fee \$ Penalty \$ Reinstated Expedit \$ Reinstated

If appointing a new statutory agent, the new agent MUST consent to that appointment by signing below. Note that the agent address must be in Arizona. (Individual or WA, corporation or limited liability company) having been designated the new Statutory Agent, do hereby consent to this appointment and my removal or resignation pursuant to law. Signature of new Statutory Agent Printed Name of new Statutory Agent

3. Secondary Address:

(Foreign Corporations are REQUIRED to complete this section).

4. Check the one category below which best describes the CHARACTER OF BUSINESS of your corporation.

BUSINESS CORPORATIONS

- 1. Accounting 2. Advertising 3. Aerospace 4. Agriculture 5. Auto Repair 6. Banking/Finance 7. Barber/Cosmetology 8. Construction 9. Contractor 10. Credit/Collection 11. Education 12. Engineering 13. Entertainment 14. General Consulting 15. Health Care 16. Hotel/Motel 17. Import/Export 18. Insurance 19. Legal Services 20. Manufacturing 21. Mining 22. News Media 23. Pharmaceutical 24. Publishing/Printing 25. Recording/Video 26. Real Estate 27. Restaurant/Bar 28. Retail Sales 29. Science/Research 30. Specialty Marketing Events 31. Technology (Computer) 32. Technology (General) 33. Television/Radio 34. Travel/Convention Services 35. Transportation 36. Wholesale 37. Veterinary Medical/Animal Care 38. Other

NON-PROFIT CORPORATIONS

- 1. Charitable 2. Interfaith 3. Educational 4. Civic 5. Political 6. Religious 7. Social 8. Literary 9. Cultural 10. Athletic 11. Science/Research 12. Hospital/Health Care 13. Hospice 14. Agricultural 15. Cooperative Marketing Association 16. Animal Husbandry 17. Homeowners Association 18. Professional, commercial, industrial or trade association 19. Other

13 MAR 15 149 Dept M 2 006

6. CAPITALIZATION: (For-profit Corporations and Business Trusts are REQUIRED to complete this section.)

Business trusts must indicate the number of transferable certificates held by trustees evidencing their beneficial interest in the trust estate. PLEASE PRINT OR TYPE CLEARLY.

6a. Please examine the corporation's original Articles of Incorporation for the amount of shares authorized.

Number of Shares/Certificates Authorized Class Series Within Class (if any)

100000

Common

6b. Review all corporation amendments to determine if the original number of shares has changed. Examine the corporation's minutes for the number of shares issued.

Number of Shares/Certificates Issued Class Series Within Class (if any)

1000

Common

8. SHAREHOLDERS: (For-profit Corporations and Business Trusts are REQUIRED to complete this section.)

List shareholders holding more than 20% of any class of shares issued by the corporation, or having more than a 20% beneficial interest in the corporation.

Name: Robert Clayton

Name:

NONE

Name:

Name:

7. OFFICERS: PLEASE TYPE OR PRINT CLEARLY. YOU MUST LIST AT LEAST ONE.

Name: ROBERT CLAYTON

Name: ROBERT CLAYTON

Title: PRESIDENT/CEO

Title: SECRETARY

Address:

Address:

Date taking office: 4/25/2006

Date taking office: 4/25/2006

Name: ROBERT CLAYTON

Name:

Title:

Title:

Address:

Address:

Date taking office: 10/1/2008

Date taking office:

4. DIRECTORS: PLEASE TYPE OR PRINT CLEARLY. YOU MUST LIST AT LEAST ONE.

Name: ROBERT CLAYTON

Name:

Address:

Address:

Date taking office: 4/25/2006

Date taking office:

Name:

Name:

Address:

Address:

Date taking office:

Date taking office:

13 MAR 15 11:47 AM '07

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

902-950  
P1007919 JB

QUESTIONNAIRE

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

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

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

Liquor License #

06070108

(If the location is currently licensed)

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

2. Name: CLAYTON ROBERT Arnold Date of Birth: \_\_\_\_\_  
Last First Middle (NOT a Public Record)

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

4. Place of Birth: Wynadotte Michigan USA Height: 5'10 Weight: 230 Eyes: BR Hair: BR - white  
City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: CLAYTON Debbie Irene mooney Date of Birth: \_\_\_\_\_  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

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

8. Telephone number to contact you during business hours for any questions regarding this document. CELL 623-451-3617

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

10. Name of Licensed Premises: Lighthouse Restaurant + Lounge Premises Phone: \_\_\_\_\_

11. Physical Location of Licensed Premises Address: 12351 W. Indian School Rd. AVONDALE Maricopa 85323  
Street Address (Do not use PO Box #) City County Zip

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

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip)
JAN/2011	CURRENT	Manager / Agent	Lighthouse Restaurant + Lounge. 12351 W. Indian School Rd Avondale Ariz 85323

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION ↓

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

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENTIAL Street Address (If rented, attach additional sheet with name, address and phone number of landlord)	City	State	Zip
1/2013	CURRENT	Rent				
5/2005	12/2012	own				

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

14. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?  YES  NO  
If you answered YES, how many hrs/day? 4-6, and answer #14a below. If NO, skip to #15.  
14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must provide proof)  YES  NO  
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.

15. Have you been cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years?  YES  NO  
In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol or drug-related.

16. Are there ANY administrative law citations, compliance actions or consents, criminal arrest, indictments or summonses PENDING against you or ANY entity in which you are now involved? Include only criminal traffic tickets and complaints.  YES  NO

17. Have you or any entity in which you have held ownership, been an officer, member, director or manager EVER had a business, professional or liquor application or license rejected, denied, revoked, suspended or fined in this or any other state?  YES  NO

18. Has anyone EVER filed suit or obtained a judgment against you, the subject of which involved fraud or misrepresentation?  YES  NO

19. Are you NOW or have you EVER held ownership, been a controlling person, been an officer, member, director or manager on any other liquor license in this or any other state?  YES  NO

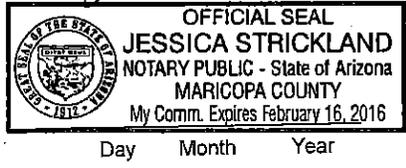
If any answer to Questions 15 through 19 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved, and dispositions.  
~~SUBSTANTIVE CHANGES TO THIS APPLICATION WILL NOT BE ACCEPTED~~

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

X Robert Clayton  
(Signature of Applicant)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this 15 day of March, 2013  
Month Year



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

J Strickland  
(Signature of NOTARY PUBLIC)

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

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ Year

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

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

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

Print Name

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

15 APR 15 11:41 AM '13

In reply to answer 19 of the Arizona Department of Liquor Licenses and Control Questionnaire.

This is going way back and I am not sure that my father Arnold Clayton made me an officer  
Of the *Arnold's 2X4 lounge* at 51<sup>st</sup> avenue and Camelback. I do remember being finger printed in  
Goodyear for something.

I was agent for the *Cable lounge* at 67<sup>th</sup> Ave and Van Buren from approx 2004 till I closed it in 2006.

Robert CLAYTON

Robert Clayton

13 FEB 15 11:47 AM 2007

Arizona Department of Liquor Licenses and Control  
 800 West Washington, 5th Floor  
 Phoenix, Arizona 85007  
 www.azliquor.gov  
 602-542-5141

**CERTIFICATE OF TITLE 4 TRAINING COMPLETION**

Do Not Duplicate This Form

Certificates must be completed by a state-approved training course provider, in black ink, on an original form.

ROBERT CLAYTON

Full Name (please print)

*Robert Clayton*

Signature

MAR 9, 2013

Training Completion Date

Type of Training Completed (check Yes or No)

MAR 9, 2018

Certificate Expiration Date

(MANAGEMENT - 5 years from completion date)  
 (BASIC - 3 years from completion date)

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	BASIC	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	ON SALE
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	MANAGEMENT	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	OFF SALE
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	BOTH	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	OTHER

If Trainee Is Employed By A Licensee

Lighthouse Rest + Lounge

Name of Licensee

Lighthouse Rest + Lounge

Business Name

00070108

Liquor License #

**Alcohol Training Program Provider Information**

ARIZONA BUSINESS COUNCIL FOR ALCOHOL EDUCATION

Company or Individual Name (please print)

77 EAST COLUMBUS AVENUE, SUITE 102

Address

Phoenix

AZ

85012

( 602 ) 285-1396

City

State

Zip

Daytime Contact Phone #

I certify the above named individual has successfully completed the training specified above in accordance with Arizona Revised Statute, Arizona Administrative Code, and the training course curriculum approved by the Department of Liquor Licenses and Control:

FRED MALLAIRE

Name of Trainer (please print)

*Fred Mallaire*

Trainer Signature

3-9-13

Date

Pursuant to A.R.S. § 4-112(G)(2), mandatory Title 4 liquor law training is required prior to the issuance of all new liquor license applications submitted after November 1, 1997.

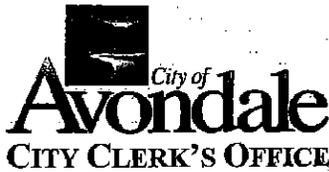
The persons(s) required to attend both the BASIC and MANAGEMENT Title 4 liquor law training, on- or off-sale, will include all of the following:

- Owner(s)
- Licensee/agent or manager(s) actively involved in daily business operation

A valid (not expired) Certificate of Title 4 Training Completion must be submitted to the Department of Liquor Licenses and Control before a liquor license application is considered complete.

Before acceptance of a manager's questionnaire and/or agent change for an existing liquor license, proof of attendance for the BASIC and MANAGEMENT Title 4 liquor law training (on- or off-sale) is required.

15 Lic. Dep. PM 2:08



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE: SERIES 06**  
 **ACQUISITION OF CONTROL**

**ROUTING:**  
 **POLICE DEPARTMENT**  
 **FIRE DEPARTMENT**  
 **DEVELOPMENT SERVICES**  
 **FINANCE DEPARTMENT**

---

**APPLICANT'S NAME: ROBERT ARNOLD CLAYTON**

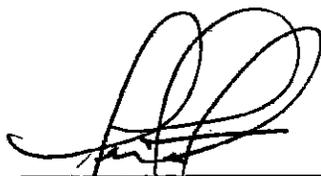
**BUSINESS NAME: LIGHTHOUSE RESTAURANT & LOUNGE**

**ADDRESS: 12351 W. INDIAN SCHOOL ROAD**

**CITY: AVONDALE STATE: AZ. ZIP CODE: 85323 85392**

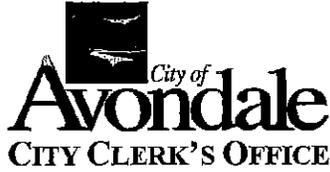
**DEPARTMENTAL COMMENTS:**

**APPROVED**  
 **DENIED**

  
\_\_\_\_\_  
**SIGNATURE**  
*Chief of Police*  
**TITLE**

*4/8/13*  
\_\_\_\_\_  
**DATE**

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 6, 2013**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 15, 2013**



**DEPARTMENTAL REVIEW FORM**

TYPE OF LICENSE: SERIES 06  
 ACQUISITION OF CONTROL

ROUTING:  
 POLICE DEPARTMENT  
 FIRE DEPARTMENT  
 DEVELOPMENT SERVICES  
 FINANCE DEPARTMENT

---

APPLICANT'S NAME: ROBERT ARNOLD CLAYTON

BUSINESS NAME: LIGHTHOUSE RESTAURANT & LOUNGE

ADDRESS: 12351 W. INDIAN SCHOOL ROAD

CITY: AVONDALE STATE: AZ. ZIP CODE: ~~85323~~ 85392

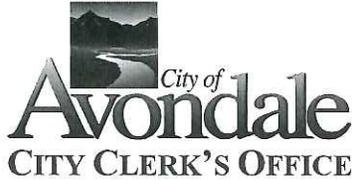
DEPARTMENTAL COMMENTS:

APPROVED  
 DENIED

Valorie Russell  
SIGNATURE  
Fire Inspector  
TITLE

4/9/13  
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 6, 2013  
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 15, 2013



**DEPARTMENTAL REVIEW FORM**

TYPE OF LICENSE: SERIES 06

ACQUISITION OF CONTROL

ROUTING:

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

---

APPLICANT'S NAME: ROBERT ARNOLD CLAYTON

BUSINESS NAME: LIGHTHOUSE RESTAURANT & LOUNGE

ADDRESS: 12351 W. INDIAN SCHOOL ROAD

CITY: AVONDALE STATE: AZ. ZIP CODE: 85323  
85392

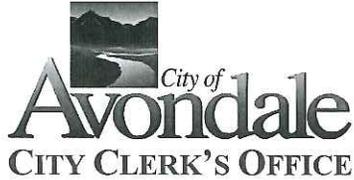
DEPARTMENTAL COMMENTS:

- APPROVED  
 DENIED

*Juan Gen*  
SIGNATURE  
*City Dev Sr Dmt*  
TITLE

*4-8-13*  
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 6, 2013  
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 15, 2013



**DEPARTMENTAL REVIEW FORM**

TYPE OF LICENSE: SERIES 06

ACQUISITION OF CONTROL

ROUTING:

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

---

APPLICANT'S NAME: ROBERT ARNOLD CLAYTON

BUSINESS NAME: LIGHTHOUSE RESTAURANT & LOUNGE

ADDRESS: 12351 W. INDIAN SCHOOL ROAD

CITY: AVONDALE STATE: AZ. ZIP CODE: 85323  
05392

DEPARTMENTAL COMMENTS:

APPROVED

DENIED

SIGNATURE

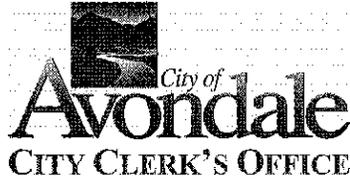
Chief Building Official

TITLE

4/8/13

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 6, 2013  
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 15, 2013



**DEPARTMENTAL REVIEW FORM**

TYPE OF LICENSE: SERIES 06  
 ACQUISITION OF CONTROL

ROUTING:  
 POLICE DEPARTMENT  
 FIRE DEPARTMENT  
 DEVELOPMENT SERVICES  
 FINANCE DEPARTMENT

---

APPLICANT'S NAME: ROBERT ARNOLD CLAYTON

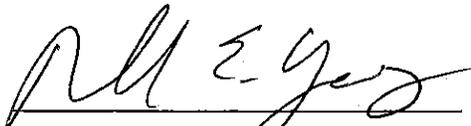
BUSINESS NAME: LIGHTHOUSE RESTAURANT & LOUNGE

ADDRESS: 12351 W. INDIAN SCHOOL ROAD

CITY: AVONDALE STATE: AZ. ZIP CODE: ~~85323~~ 85392

DEPARTMENTAL COMMENTS:

APPROVED  
 DENIED

  
\_\_\_\_\_  
SIGNATURE  
TAX Audit Supervisor  
\_\_\_\_\_  
TITLE

4/8/13  
\_\_\_\_\_  
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 6, 2013  
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 15, 2013

04.09.2013 10:48

# NOTICE

APPLICATION TO SELL ALCOHOLIC BEVERAGES  
DATE POSTED: APRIL 9, 2013

A HEARING ON A LIQUOR LICENSE APPLICATION  
SHALL BE HELD BEFORE THE AVONDALE CITY COUNCIL

LOCATION: 11465 WEST CIVIC CENTER DRIVE  
DATE: MONDAY, MAY 6, 2013  
AT 7:00 PM.

(HEARING DATES SUBJECT TO CHANGE.  
TO VERIFY CALL: 623-333-1200)

**\*\*SERIES 06: BAR LIQUOR LICENSE TO SELL  
ALL SPIRITUOUS LIQUORS\*\***

THE LOCAL GOVERNING BODY WILL RECOMMEND TO THE STATE LIQUOR BOARD WHETHER THE BOARD SHOULD GRANT OR DENY THE LICENSE. THE STATE LIQUOR BOARD MAY HOLD A HEARING TO CONSIDER THE RECOMMENDATION OF THE LOCAL GOVERNING BODY. ANY PERSON RESIDING OR OWNING OR LEASING PROPERTY WITHIN A ONE-MILE RADIUS MAY CONTACT THE STATE LIQUOR BOARD IN WRITING TO REGISTER AS A PROTESTER. TO REQUEST INFORMATION REGARDING PROCEDURES BEFORE THE BOARD AND NOTICE OF ANY BOARD HEARINGS REGARDING:

**Lighthouse Restaurant & Lounge  
12351 W. Indian School Rd.  
Avondale, AZ. 85392**

THIS APPLICATION, CONTACT: STATE LIQUOR BOARD - 800 W. WASHINGTON, 5TH FLOOR, PHOENIX, AZ 85007 STATE LIQUOR DEPT: (602) 542-9789  
INDIVIDUALS REQUIRING ADA ACCOMMODATIONS CALL THE CITY CLERK AT: 623-333-1200.

## ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W. WASHINGTON, 5TH FLOOR  
PHOENIX, AZ 85007-2504  
(602) 542-9789  
WWW.AZLIQUOR.COM

SEE  
AMENDMENT

### APPLICATION FOR AGENT CHANGE, ACQUISITION OF CONTROL - RESTRUCTURE

Check appropriate box:  Agent Change  Acquisition of Control  Restructure

SECTION 1: COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRICTION OF CONTROL OF AN EXISTING LICENSE.

- Name, residence, or principal place of business of applicant: AVONDALE ARIZONA 85392
- Business Name: Lighthouse Restaurant & Lounge LLC 12351 W. Indian School Rd. Avondale, AZ 85392
- Business Address: 12351 W. Indian School Rd. Avondale, AZ 85392
- Is the business located within the Incorporated limits of the above city or town? Yes
- Mailing Address: \_\_\_\_\_
- Business Phone: 602-945-2001 Residence Phone: \_\_\_\_\_
- Check the transaction that is the case of any partner of the corporate entity:  Buy  Sell  NA  From, liquid or dissolved entity of another jurisdiction  Other  Other  Other  Other
- Have there been any changes in ownership?  Yes  No  Other  Other  Other

SECTION 2: COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL, OR RESTRICTION OF CONTROL OF AN EXISTING LICENSE. Each person listed in Section 1 is an agent or a person in possession of the license. If you are a partnership, you must list all partners, proprietors and active managers in addition to the agent. A person appearing in both sets must sign one questionnaire and designate their role.

1. List individual name or partners of all divisions, officers or key members in LLC	Signature	Date
<u>Stanley Robert Aronson</u>	<u>President</u>	
<u>Stanley Robert Aronson</u>	<u>Secretary</u>	
<u>Stanley Robert Aronson</u>	<u>Treasurer</u>	

SECTION 3: List description of controlling members owning 10% or more of Capital (10% or more of total assets).

1. Name	Business Address	Phone Number
<u>Stanley Robert Aronson</u>	<u>100</u>	

SECTION 4: List description of controlling members owning 10% or more of Capital (10% or more of total assets).

1. Name	Business Address	Phone Number
<u>Stanley Robert Aronson</u>	<u>100</u>	

SECTION 5: List description of controlling members owning 10% or more of Capital (10% or more of total assets).

1. Name	Business Address	Phone Number
<u>Stanley Robert Aronson</u>	<u>100</u>	



WELCOME TO THE LIGHTHOUSE BAR & GRILL

NO MOTORCYCLE CLUB COLORS

Lite

EOP

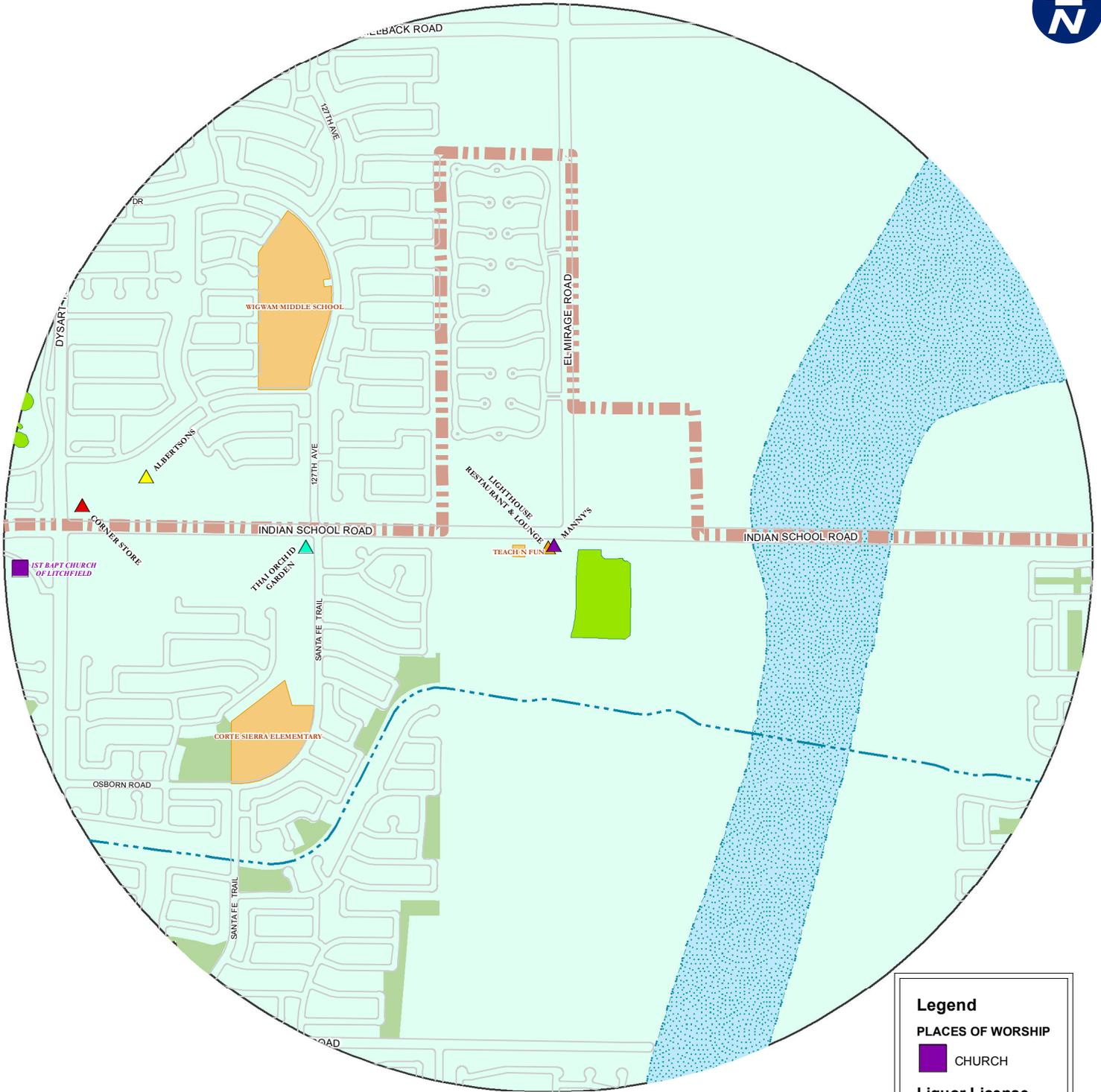
BORN SMALL TOWN

04.09.2013 10:50

**LIGHTHOUSE**  
**SPORTS BAR & GRILL**  
**KARAOKE**  
**LADIES NIGHT FRIDAY**  
**FREE POOL S M T W**



04.09.2013 10:51



**Legend**

**PLACES OF WORSHIP**

 CHURCH

**Liquor License**

 SERIES 5

 SERIES 11

 SERIES 6

 SERIES 7

 SERIES 9

 SERIES 10

 SERIES 12

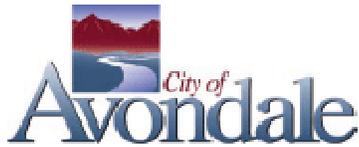
 SERIES 15

 SERIES 16

 SCHOOLS

**LIGHTHOUSE RESTAURANT & LOUNGE**  
**12351 W INDIAN SCHOOL RD**  
**1 Mile Buffer**





# CITY COUNCIL REPORT

**SUBJECT:**

Acceptance of the Southwest Valley Local Transit System Study

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council review and accept the Southwest Valley Local Transit System Study prepared by the Maricopa Association of Governments, in partnership with West Valley cities and through outreach to residents.

**BACKGROUND:**

The Southwest Valley has experienced an extended period of rapid population and employment growth. However, the recent economic downturn has impacted the area's current and future transit service. The purpose of the Southwest Valley Local Transit System Study (SWVLTSS) is to identify opportunities and strategies for improving transit service in the Southwest Valley and develop short, mid, and long range local transit strategies that effectively provide circulation within the southwest valley and are mindful of the need to connect to the regional transit system. The study area includes portions of the City of Phoenix, City of Avondale, City of Goodyear, City of Tolleson, City of Litchfield Park, Town of Buckeye and surrounding unincorporated portions of Maricopa County.

**DISCUSSION:**

The Southwest Valley Local Transit System study was conducted to assess the transit service needs within the Southwest Valley. These communities worked with MAG and Valley Metro to identify a transit system plan that outlines short-, mid-, and long-term strategies to cost-effectively improve service within the Southwest Valley. Local transit is intended to serve shorter trips within a community that typically would be provided by arterial bus or circulator routes. Local transit should connect to more regional transit that would serve longer trips, such as express bus, light rail, or commuter rail. The short-, mid-, and long-term timeframes are identified as what can be accomplished in the next several years (short-term), what can be accomplished by 2020 (mid-term), and the build out of the transit system by 2030 and beyond (long-term).

**BUDGETARY IMPACT:**

The study will provide Avondale staff guidance when pursuing future funding opportunities.

**RECOMMENDATION:**

Staff recommends that the City Council review and accept the Southwest Valley Local Transit System Study prepared by the Maricopa Association of Governments, in partnership with West Valley cities and through outreach to residents.

**ATTACHMENTS:**

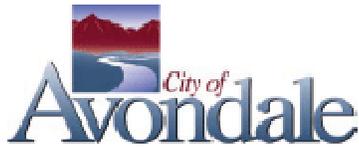
Click to download

[Study and Executive Summary](#)

DUE TO ITS SIZE, THIS DOCUMENT  
HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

<http://www.avondale.org/DocumentCenter/View/32094>



# CITY COUNCIL REPORT

**SUBJECT:**

First Amendment to Area Agency on Aging  
Contract 2013-05-AVO

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve the first amendment to contract 2013-05-AVO with the Area Agency on Aging (AAA) to increase the MCSO operations by \$1000 and re-program \$8000 from the Home Delivered Meal (HDM) program to the Transportation program and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents

**BACKGROUND:**

The City of Avondale has contracted with Area Agency on Aging (AAA) to provide nutritional meals and activities for seniors and handicapped individuals for over twenty (20) years. Services are provided to eligible residents in Avondale, Goodyear, and Litchfield Park. These services include the congregate meals program, the home delivered meals (HDM) program, the multipurpose center operations (MCSO) program and transportation program. The Area Agency on Aging has awarded the City of Avondale \$300,564 for FY 2012 - 2013 which provides funds to active adult programs and services.

The overall budget for the Active Adult Program is \$461,115. The Area Agency on Aging (AAA) provides \$300,564 (65%) of the funding for the Active Adult Program. The balance of program funds comes from Project income (Participant fees - less than 1%), Non Federal In-Kind Support (City Facility Cost - 8%) and Non Federal Cash (Donations from outside municipalities and City General Fund - 26%). AAA distributes funds to participating communities by program area:

HDM	\$124,294	(69% of the component budget)
MCSO	\$48,946	(51% of the component budget)
Transportation	\$49,738	(82% of the component budget)
<u>Congregate</u>	<u>\$77,586</u>	<u>(61% of the component budget)</u>
Total AAA Funding	\$300,564	(65% of the overall program budget)

AAA has experienced funding shortfalls and is required to make funding adjustments to the participant municipal programs funded by AAA. The funds adjustments will occur between program functions but will not reduce the overall contribution from AAA to the City of Avondale. In addition, funding to the MCSO program will increase the overall contribution to the City of Avondale by \$1000.00.

**DISCUSSION:**

The following two (2) funding adjustments are requested to AAA contract 2013-05-AVO as follows:

1. A funds transfer of \$8,000 is requested from the HDM program to the Transportation program to cover AAA budget shortfalls in Transportation Program income. The HDM program has experienced a reduction in meal service requests and the program is projected to have a fund balance at the end of the current fiscal year. This request is for a funds transfer only.
2. A funding increase in the amount of \$1,000 to the MCSO program to support the Good Living Conference. The conference is a half day of workshops, networking and activities hosted by the City of Avondale. The conference goal is to help seniors stay engaged with community throughout life. The conference was held on Saturday, April 20 from 8am to Noon at City Hall. The funding support for the Healthy Living Conference will increase the overall MCSO program area funding by \$1000 from \$48,945 to \$49,945 and increase the overall AAA Active Adult program funding from \$300,564 to \$301,564.

**BUDGETARY IMPACT:**

Approval of the budget transfer will decrease the HDM program area funding by \$8,000 from \$124,294 to \$116,294 and increase the Transportation area funding by \$8,000 from \$49,738 to \$57,738.

HDM Program Account: 202-7121

Transportation Program Account: 202-7123

The funding support for the Healthy Living Conference will increase the overall MCSO program area funding by \$1000 from \$48,945 to \$49,945 and increase the overall AAA Active Adult program funding from \$300,564 to \$301,564.

MCSO Program Account: 202-7122

**RECOMMENDATION:**

Staff recommends that the City Council approve the first amendment to contract 2013-05-AVO with the Area Agency on Aging (AAA) to increase the MCSO operations by \$1000 and re-program \$8000 from the Home Delivered Meal (HDM) program to the Transportation program and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents

**ATTACHMENTS:**

Click to download

[Amendment](#)

**CONTRACT FOR SERVICES BETWEEN**

**AMENDMENT 1**

**2013-05-AVO**

**Area Agency on Aging, Region One, Incorporated AND**  
**1366 E. Thomas Road, Suite 108**  
**Phoenix, Arizona 85014**  
**602-264-2255 fax: 602-230-9132**

**City of Avondale**  
**11465 West Civic Center Drive**  
**Avondale, Arizona 85323**  
**623-333-1000 fax:623-333-0100**  
**EIN #866000233**

**EFFECTIVE DATE OF THIS AMENDMENT:** March 1, 2013

**PURPOSE OF THE AMENDMENT:**

1. Adjust Area Agency funds in contracted services as follows:
  - a) Decrease Home Delivered Meals by \$8,000 from \$124,294 to \$116,294 and
  - b) Increase Transportation by \$8,000 from \$49,738 to \$57,738.
  
2. Increase Area Agency funding for Multipurpose Center Operations by \$1,000 from \$48,945 to \$49,945 to conduct a healthy living workshop.

EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AS HERETOFORE CHANGED AND/OR AMENDED REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. IN WITNESS THEREBY OF SIGNATURE, THE PARTIES ENTER INTO THIS CONTRACT:

**AREA AGENCY ON AGING,  
REGION ONE, INCORPORATED**

**CITY OF AVONDALE**

\_\_\_\_\_  
Signature and Date

**Mary Lynn Kasunic, President & CEO**  
**Area Agency on Aging Director**

\_\_\_\_\_  
Signature and Date

**Charles McClendon, City Manager**

**CONTRACT SUMMARY**  
**FIXED PRICE WITH PRICE ADJUSTMENT**

CONTRACT #: 2013-05-AVO  
 CONTRACTOR: City of Avondale  
 Document *Amendment 1*  
 Contract Term July 1, 2012 to June 30, 2013

*Contract Payment Ceiling for All Services:* **TOTAL: \$ 301,564**

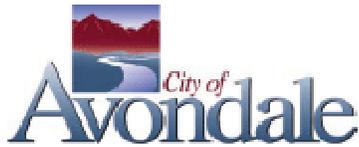
**CONTRACT OPERATING BUDGET**

<b>REVENUE</b>	<b>Congregate Meals</b>	<b>Home Delivered Meals</b>	<b>Multipurpose Operations</b>	<b>Transportation</b>	<b>TOTAL</b>
Area Agency	77,586	116,294	49,946	57,738	301,564
Project Income	2,280	2,000	-	70	4,350
Non-Fed Inkind	7,875	10,312	18,750	-	36,937
Non-Fed Cash	38,625	50,311	27,898	10,430	127,264
Other Federal	-	-	-	-	-
<b>TOTAL</b>	<b>126,366</b>	<b>178,917</b>	<b>96,594</b>	<b>68,238</b>	<b>470,115</b>
<b>EXPENSES</b>					
Personnel	48,079	64,090	51,480	36,920	200,569
ERE	14,425	19,523	15,444	8,122	57,514
Prof&Outside	-	-	-	-	-
Travel	-	11,621	-	16,996	28,617
Space	12,939	18,600	20,950	-	52,489
Equipment	-	-	-	-	-
Materials/Supl	45,410	58,006	2,300	6,200	111,916
Operating Svc	5,513	7,077	6,420	-	19,010
Indirect	-	-	-	-	-
<b>TOTAL</b>	<b>126,366</b>	<b>178,917</b>	<b>96,594</b>	<b>68,238</b>	<b>470,115</b>
Units	14,000	20,000	2,917	7,500	
Unit Rate	\$ 9.03	\$ 8.95	\$ 33.11	\$ 9.10	

**COMMUNICATION PAGE**  
*(not an integral page of the Contract)*

**City of Avondale**  
**Contract 2013-05-AVO**  
**Amendment #1**

**3/27/13** EMAILED TO: [creams@avondale.org](mailto:creams@avondale.org)  
[fmccoy@avondale.org](mailto:fmccoy@avondale.org)  
[smontague@avondale.org](mailto:smontague@avondale.org)



# CITY COUNCIL REPORT

**SUBJECT:**

Construction Contract Award to S&L Developments  
for City Data Center Remodel

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Mark Neerings, Assistant IT Director (623) 333-5020

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff requests approval of a contract with S&L Development in the amount of \$111,000 to provide construction services for a remodel of the City Data Center.

**BACKGROUND:**

In Fiscal Years 2011 and 2012, the City executed three projects to modernize the City's technology infrastructure at the City Data Center. The improvements reduced hardware requirements and electricity use, while adding redundancy to support business systems used by all City departments in support of municipal operations.

Based on the results of the initiatives, the City is positioned to refit the City Data Center to meet related safety and Green IT goals. The Information Technology Department (IT) submitted a carryover request for Fiscal Year 2013 to fund these enhancements. The request was approved by City Council and included as part of the IT budget in the City's Annual Budget and Financial Plan for FY2013.

The Information Technology Department worked with the Finance and Budget Department to procure construction services via an Invitation for Bid process in March and April 2013. Six responsive bids were received. S&L Development was determined to be the successful bidder at the April 8, 2013, bid opening. Notification was provided to all responders as part of the procurement process.

**DISCUSSION:**

The advent of utility computing and "virtualization" technologies allows organizations to minimize server hardware requirements while improving reliability and reducing electricity usage. With the successful completion of the City's virtualization efforts in FY2012, the organization can now address Data Center safety needs, as well as goals defined in the City's Green IT Plan. Specifically, the Information Technology Department project supported by this contract would (1) implement dry fire suppression in a high-voltage environment and (2) shrink the Data Center's size to minimize electricity used for cooling. A corollary benefit will be prolonging the life of associated air conditioning units dedicated to the City Data Center.

City Council approved \$75,000 in carryover of funds from Fiscal Year 2012 to 2013 for this project and the benefits detailed. This was based on architect designs and cost estimates. However, the low bid for the work is approximately \$111,000. To complete the project budget, IT identified funds within its budget primarily from cost savings resulting from first year maintenance and support being included with network equipment recently purchased by the City.

**BUDGETARY IMPACT:**

Construction services will cost approximately \$111,000 per the successful bid on City IFB IT 13-023. Funding for all the award and contract is located within programs 101-5120 and 101-5121.

**RECOMMENDATION:**

Staff recommends that the Mayor and City Council approve the award of a contract to S&L Developments to provide construction services to refit the City Data Center for a total amount of \$111,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

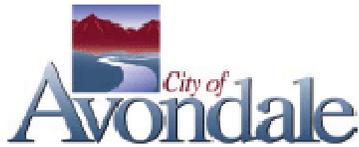
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[Bid Tabulation](#)

Item No.	Description of Materials and/or Services	Qty	Unit	S+L Development		FCI Construction		West America AZ		Gold Horizon		G+G Specialty		Vertical Build LLC		JMW		Redden		RK Sanders		
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price
1500	Construction Facilities and temporary Controls	1	LOT	\$1,800.00	\$1,800.00	Bid LS	\$7,024.93	Bid LS	\$5,000.00	Bid LS	\$663.00	Bid LS	\$1,800.00	Bid LS	\$9,219.00	Non Responsive		Non Responsive		Non Responsive		
1600	Material and Equipment	1	LOT	\$760.00	\$760.00	Bid LS	\$0.00	Bid LS	\$33,522.00	Bid LS	\$12,150.00	Bid LS	\$4,000.00	Bid LS	\$5,544.00							
1700	Contract Closeout	1	EA	\$1,150.00	\$1,150.00	Bid LS	\$0.00	Bid LS	\$500.00	Bid LS	\$100.00	Bid LS	\$1,800.00	Bid LS	\$277.00							
01700.1.01	Final Cleaning	1	LOT	\$1,250.00	\$1,250.00	Bid LS	\$2,281.07	Bid LS	\$500.00	Bid LS	\$663.00	Bid LS	\$2,300.00	Bid LS	\$776.00							
01700.1.02	Project Record Documents	1	EA	\$1,150.00	\$1,150.00	Bid LS	\$1,082.13	Bid LS	\$1,000.00	Bid LS	\$100.00	Bid LS	\$1,800.00	Bid LS	\$111.00							
01700.1.03	Operation And Maintenance Data	1	LOT	\$450.00	\$450.00	Bid LS	\$0.00	Bid LS	\$1,000.00	Bid LS	\$100.00	Bid LS	\$1,800.00	Bid LS	\$111.00							
01700.1.04	Spare Parts and Maintenance Materials	1	LOT	\$150.00	\$150.00	Bid LS	\$0.00	Bid LS	\$500.00	Bid LS	\$100.00	Bid LS	\$650.00	Bid LS	\$111.00							
01700.1.05	Warranties	1	EA	\$1,860.00	\$1,860.00	Bid LS	\$0.00	Bid LS	\$500.00	Bid LS	\$100.00	Bid LS	\$2,000.00	Bid LS	\$222.00							
2050	Demolition	1	LOT	\$4,114.00	\$4,114.00	Bid LS	\$13,117.96	Bid LS	\$4,058.00	Bid LS	\$8,609.00	Bid LS	\$8,400.00	Bid LS	\$9,070.00							
5410	Load-Bearing Metal Stud System	1	LOT	\$2,316.00	\$2,316.00	Bid LS	\$0.00	Bid LS	\$1,000.00	Bid LS	\$0.00	Bid LS	\$800.00	Bid LS	\$0.00							
5500	Metal Fabrications	1	LOT	\$1,950.00	\$1,950.00	Bid LS	\$1,082.13	Bid LS	\$100.00	Bid LS	\$0.00	Bid LS	\$650.00	Bid LS	\$55.00							
7210	Building Insulation	1	LOT	\$1,500.00	\$1,500.00	Bid LS	\$3,035.06	Bid LS	\$750.00	Bid LS	\$431.00	Bid LS	\$500.00	Bid LS	\$1,340.00							
7270	Fire Stopping	1	LOT	\$1,920.00	\$1,920.00	Bid LS	\$1,903.28	Bid LS	\$300.00	Bid LS	\$100.00	Bid LS	\$650.00	Bid LS	\$270.00							
7600	Flashing and Sheet Metal	1	LOT	\$1,250.00	\$1,250.00	Bid LS	\$636.55	Bid LS	\$200.00	Bid LS	\$0.00	Bid LS	\$1,500.00	Bid LS	\$332.00							
7900	Joint Sealers	1	LOT	\$620.00	\$620.00	Bid LS	\$636.55	Bid LS	\$750.00	Bid LS	\$100.00	Bid LS	\$500.00	Bid LS	\$111.00							
8100	Steel Doors and Frames	5	EA	\$260.00	\$1,300.00	Bid LS	\$1,381.31	Bid LS	\$2,000.00	Bid LS	\$1,990.00	Bid LS	\$800.00	Bid LS	\$798.00							
8210	Wood Doors	4	EA	\$408.00	\$1,632.00	Bid LS	\$2,418.88	Bid LS	\$1,000.00	Bid LS	\$1,990.00	Bid LS	\$800.00	Bid LS	\$1,108.00							
8710	Door Hardware	4	EA	\$310.00	\$1,240.00	Bid LS	\$3,498.46	Bid LS	\$700.00	Bid LS	\$1,320.00	Bid LS	\$1,400.00	Bid LS	\$2,088.00							
8800	Glazing	1	LOT	\$1,800.00	\$1,800.00	Bid LS	\$1,056.67	Bid LS	\$200.00	Bid LS	\$2,653.00	Bid LS	\$1,400.00	Bid LS	\$105.00							
9100	Metal Support Assemblies	1	LOT	\$2,876.00	\$2,876.00	Bid LS	\$3,819.28	Bid LS	\$1,000.00	Bid LS	\$3,979.00	Bid LS	\$8,300.00	Bid LS	\$2,558.00							
9250	Gypsum Board	1	LOT	\$5,757.00	\$5,757.00	Bid LS	\$3,638.50	Bid LS	\$7,210.00	Bid LS	\$5,539.00	Bid LS	\$2,000.00	Bid LS	\$1,964.00							
9510	Acoustical Ceilings	1	LOT	\$2,750.00	\$2,750.00	Bid LS	\$10,313.33	Bid LS	\$2,216.00	Bid LS	\$3,946.00	Bid LS	\$2,100.00	Bid LS	\$3,236.00							
9680	Carpet	1	LOT	\$1,650.00	\$1,650.00	Bid LS	\$6,966.37	Bid LS	\$2,010.00	Bid LS	\$3,979.00	Bid LS	\$3,000.00	Bid LS	\$3,989.00							
9900	Painting	1	LOT	\$1,689.00	\$1,689.00	Bid LS	\$2,291.57	Bid LS	\$3,754.00	Bid LS	\$4,165.00	Bid LS	\$2,000.00	Bid LS	\$2,794.00							
10401	Signage	1	LOT	\$250.00	\$250.00	Bid LS	\$445.58	Bid LS	\$300.00	Bid LS	\$100.00	Bid LS	\$1,200.00	Bid LS	\$0.00							
10520	Fire Protection Specialties	1	LOT	\$3,710.00	\$3,710.00	Bid LS	\$527.06	Bid LS	\$700.00	Bid LS	\$398.00	Bid LS	\$300.00	Bid LS	\$199.00							
21 1313	Wet Pipe Sprinkler Systems	1	LOT	\$9,880.00	\$9,880.00	Bid LS	\$6,126.13	Bid LS	\$8,000.00	Bid LS	\$6,383.00	Bid LS	\$54,000.00	Bid LS	\$40,350.00							
21 1316	Dry Pipe Fire Sprinkler Systems	1	LOT	\$26,220.00	\$26,220.00	Bid LS	\$55,825.16	Bid LS	\$51,185.00	Bid LS	\$34,780.00	Bid LS	\$56,000.00	Bid LS	\$6,515.00							
22 0529	Hangers and Supports for Plumbing Piping and Equipment	1	LOT	\$11,550.00	\$11,550.00	Bid LS	\$0.00	Bid LS	\$1,000.00	Bid LS	\$8,443.00	Bid LS	\$500.00	Bid LS	\$10,710.00							
22 0554	Identification for Plumbing, HVAC, and Fire Piping and Equipment	1	LOT	\$1,220.00	\$1,220.00	Bid LS	\$14,704.23	Bid LS	\$1,000.00	Bid LS	\$100.00	Bid LS	\$500.00	Bid LS	\$1,339.00							
22 0713	Plumbing and HVAC Insulation	1	LOT	\$1,250.00	\$1,250.00	Bid LS	\$0.00	Bid LS	\$1,000.00	Bid LS	\$100.00	Bid LS	\$500.00	Bid LS	\$1,339.00							
26 0519	Low Voltage Electrical Power Conductors and Cables	1	LOT	\$3,150.00	\$3,150.00	Bid LS	\$7,662.75	Bid LS	\$1.00	Bid LS	\$0.00	Bid LS	\$1,000.00	Bid LS	\$48,915.00							
26 0526	Grounding and Bonding for Electrical Systems	1	LOT	\$1,100.00	\$1,100.00	Bid LS	\$0.00	Bid LS	\$15,500.00	Bid LS	\$100.00	Bid LS	\$1,000.00	Bid LS	\$1,222.00							
26 0529	Hangers and Supports for Electrical Systems	1	LOT	\$1,550.00	\$1,550.00	Bid LS	\$11,399.28	Bid LS	\$2,000.00	Bid LS	\$300.00	Bid LS	\$1,000.00	Bid LS	\$1,222.00							
26 0533	Raceways and Boxes for Electrical Systems	1	LOT	\$1,250.00	\$1,250.00	Bid LS	\$11,651.35	Bid LS	\$2,000.00	Bid LS	\$9,020.00	Bid LS	\$1,000.00	Bid LS	\$8,554.00							
26 0553	Identification for Electrical Systems	1	LOT	\$250.00	\$250.00	Bid LS	\$0.00	Bid LS	\$500.00	Bid LS	\$100.00	Bid LS	\$1,000.00	Bid LS	\$1,222.00							
				<b>Subtotal</b>	<b>\$104,314.00</b>		\$174,525.57		\$152,956.00		\$112,601.00		\$168,950.00		\$167,776.00							
				<b>Avondale Tax</b>	<b>\$6,246.32</b>		\$10,450.59		\$9,159.01		\$6,742.55		\$10,116.73		\$10,046.43							
				<b>Total</b>	<b>\$110,560.32</b>		\$184,976.16		\$162,115.01		\$119,774.00		\$179,066.73		\$177,822.43							
				<b>Corrected Amount</b>																		

City of Avondale  
 IFB IT 13-023 Information Technology Data Center Renovation Project  
 Bid Opening: April 8, 2013

	S+L Development	FCI Construction	West America AZ	Gold Horizon	G+G Specialty	Vertical Build LLC	JMW	Redden	RK Sanders
<b>Submittal Requirements</b>									
Signed Offer Sheet	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Complete Copy of IFB	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Addendum 1 Complete and Acknowledgement	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Licenses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Bid Bond	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Substitutions/Exceptions	None	None	None	None	None	None	None	None	None
Key Personnel List	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
References Complete	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No



# CITY COUNCIL REPORT

**SUBJECT:**

Contract Award - Thatcher Company for Water Treatment Chemicals

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a one-year contract with Thatcher Company to provide chemicals for water and wastewater treatment in an amount not to exceed \$16,605, with the option of four annual one-year renewals for a total possible five-year term, and a maximum aggregate amount not to exceed \$83,025, and to authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The City treats approximately 12 million gallons of water, and 5.5 million gallons of wastewater, each day. Several chemicals are essential to the processes for ensuring adequate treatment and maintaining regulatory compliance. At the water reclamation facility sodium bisulfite is used for de-chlorination, and 33% sodium hydroxide is used for pH control throughout the treatment process. At the Northside Booster Station arsenic treatment facility 25% sodium hydroxide is used for pH adjustments.

**DISCUSSION:**

To purchase the bulk chemicals necessary for water and wastewater treatment the City issued an Invitation for Bids (IFB PW 13-004) on September 4, 2012, and advertised in the Arizona Business Gazette on September 6, 2012, and the West Valley View on September 4 and 11, 2012. An addendum was published on September 18, 2012, and the bid opening was held on September 25, 2012. Several contractors responded to the IFB but only Thatcher Company submitted a qualified bid.

**BUDGETARY IMPACT:**

Subject to budget approval, funding for this contract is available in the Water Operating Fund, Water Production (501-9122) and the Wastewater Fund, Water Reclamation Facility (503-9230).

**RECOMMENDATION:**

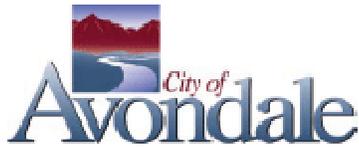
Staff recommends that the City Council approve a one-year contract with Thatcher Company to provide chemicals for water and wastewater treatment in an amount not to exceed \$16,605, with the option of four annual one-year renewals for a total possible five-year term, and a maximum aggregate amount not to exceed \$83,025, and to authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

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[Bid Tabulation](#)

				Thatcher		Hills Brothers		Univar		Salt Works		Sierra Chemical	
	Item Description	Quantities	Unit	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	Bulk 38-40% Sodium Bisulfite	3500	Gallons	\$1.580	\$5,530.00	*	*	*	*	No Bid	No Bid	"No Bid" letter issued	
2	Bulk 33% Sodium Hydroxide (caustic soda solution)	4500	Gallons	\$1.421	\$6,394.50	*	*	No Bid	No Bid	No Bid	No Bid		
3	30% Hydrochloric Acid	55	Gallons	No Bid	No Bid	*	*	No Bid	No Bid	No Bid	No Bid		
4	Bulk Coarse Salt		lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
5	Bulk 25% Sodium Hydroxide	4500	Gallons	\$1.040	\$4,680.00	*	*	*	*	No Bid	No Bid		
6	Bulk 35% Ferric Chloride		Gallons	No Bid	No Bid	*	*	No Bid	No Bid	No Bid	No Bid		
7	Bulk Course Salt—NSF Approved. (99.75-99.93 % sodium Chloride.)	1000	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(i)		1500	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(ii)		2000	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(iii)		1000	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(iv)		1000	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(v)		1500	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(vi)		1000	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
(vii)		1000	lb	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	*	*		
<b>TOTALS</b>					<b>\$16,604.50</b>								
Submittal Requirements													
Sealed Bid-Labeled				Yes		Yes		Yes		Yes		N/A	
Complete Copy of IFB				Yes		No		Yes		Yes		N/A	
Complete Addendum 1				Yes		Yes		Yes		Yes		N/A	
Signed Offer Sheet				Yes		Yes		Yes		Yes		N/A	
License(s)				Yes		Yes		No		Yes		N/A	
Complete References				Yes		No		Yes		No		N/A	
Lowest Responsive Bidder <span style="color: red;">*Disqualified for non-compliance</span>													



# CITY COUNCIL REPORT

**SUBJECT:**

Cooperative Purchasing Agreement - Kovatch  
Mobile Equipment Corp. for Light/Air Utility Truck

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council  
**FROM:** Paul Adams, Fire Chief (623) 333-6100  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff requests the city council approve a purchase agreement with Kovatch Mobile Equipment Corp. (KME Fire Apparatus) in a total amount of \$534,029.57 for the purchase of a new light/air utility fire apparatus and authorize the Mayor or City Manager and City Clerk to execute the appropriate documents.

**BACKGROUND:**

The light/air utility truck currently operated by the fire-rescue department was purchased in 2003, currently has over 138,000 miles and is due for replacement in this fiscal year. The vehicle provides scene lighting, breathing air, and rehabilitation services to support incident operations as part of the automatic aid response system.

**DISCUSSION:**

The fire-rescue department has been working with KME Fire Apparatus to finalize specifications and a purchase agreement for a new light/air utility truck to replace the vehicle currently operated by the department. The new vehicle is available through a Houston-Galveston Area Council (HGAC) cooperative purchasing agreement which the city has used successfully in the past to purchase fire apparatus at a significant cost savings.

A final purchase agreement has been completed with KME at a cost of \$534,029.57 with an estimated construction time of nine months following receipt of the order. Once the new vehicle has been delivered and accepted the current vehicle will move to a reserve status.

**BUDGETARY IMPACT:**

Funding to replace vehicle 1441 (current light/air utility truck) is available in the vehicle replacement fund (Fund 601).

**RECOMMENDATION:**

Staff recommends that the city council approve a purchase agreement with Kovatch Mobile Equipment Corp. (KME Fire Apparatus) in a total amount of \$534,029.57 for the purchase of a new light/air utility fire apparatus and authorize the Mayor or City Manager and City Clerk to execute the appropriate documents.

**ATTACHMENTS:**

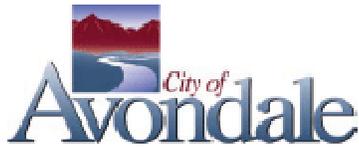
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[CPA - Kovatch](#)

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HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

<http://www.avondale.org/DocumentCenter/View/32079>



# CITY COUNCIL REPORT

**SUBJECT:**

Professional Services Agreement - Jeni McCutcheon, Psy.D., PLLC

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Cherlene Penilla, Human Resources Director (623) 333-2218

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a Professional Services Agreement with Jeni McCutcheon Psy D PLLC to provide psychological testing services for police, fire and other recruitments and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The City of Avondale entered into a Professional Services Agreement #12594 dated April 11, 2008, with M&M Public Safety Psychology Services P.L.L.C. to provide psychology services for the City of Avondale public safety positions (i.e., police and fire recruitments) and other positions within the City.

The agreement was extended from October 31, 2011, for an additional one-year term for the period of April 11, 2011, through and including April 11, 2012. Subsequently, the professional services agreement was extended until April 11, 2013.

The founding partner of M & M Public Safety Psychology Services, P.L.L.C. has retired, and the second partner, Dr. Jeni McCutcheon has continued to provide psychological services for the City of Avondale.

**DISCUSSION:**

The Human Resources Department and Police Department coordinated with the Procurement Officer to issue a Request for Statements of Qualifications for Public Safety Psychological Services (RFQ) seeking vendors to provide public safety psychological assessments services. With the Procurement Officer providing guidance, one (1) vendor responded to the RFQ to address our needs--Dr. Jeni McCutcheon.

The services to be performed are:

1. Candidate pre-employment screening, which would include, psychological testing, problem-solving abilities, employment history, education, criminal background check, substance abuse and/or drug use.
2. Preparation of a pre-employment screening report that outlines testing instruments and results, the clinical interview, desirable or disqualifying factors, the candidate's ability to perform all duties of a public safety employee (including carrying a weapon) in a safe and reliable manner.
3. Evaluate an individual's ability to perform the essential functions of the job as requested by the City. The evaluation may include a clinical interview, review of relevant department reports, direct consultation with the supervisor who requested the evaluation, psychological testing.

4. Preparation of a written assessment report which contains a psychological review, and recommendations of the employee's ability to perform the essential duties of his/her public safety position in a safe and reliable manner.
5. Types of screenings, evaluations and assessments that would be performed: are a fitness for duty, critical incident stress management team supervision, call-outs for interventions regarding a line-of-duty death or serious injury, threat assessments, specialty assignments, re-entry to the force after an officer involved shooting.
6. Visit with the department (police and fire) when employees return to work after traumatic events.
7. Provide, on an as-requested basis, training modules on mental health, psychological issues and related mental health topics for public safety employees.
8. Completion of written report(s) and/or evaluation(s) for single or group of applicant(s) by the City's specified deadline.

**BUDGETARY IMPACT:**

The City shall pay Consultant an amount not to exceed \$20,000.00 for the Services during the Initial Term, with an aggregate amount not to exceed \$92,000.00 for the entire Term of the Agreement, as set forth in the Fee Proposal attached.

**RECOMMENDATION:**

Staff recommends that the City Council approve a Professional Services Agreement with Jeni McCutcheon Psy D PLLC to provide psychological testing services for police, fire and other recruitments and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

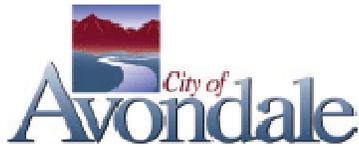
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# CITY COUNCIL REPORT

**SUBJECT:**

Professional Services Agreement - Strategic  
Advisory Group

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Pier Simeri, Community Relations and Public Affairs Director (623) 333-1611

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The City of Avondale wishes to create a marketing strategy to include the development of a cohesive brand for the city to enhance its image, create a specific identity, promote its positive characteristics and cross-functionally market Avondale to drive business, relocation, tourism and general perception.

**BACKGROUND:**

As part of its visioning session held in December 2012, the City Council expressed a desire to make Avondale "a community of choice" for business relocation and economic development attraction, as well as home for residents from all socio-economic backgrounds. A means to achieve this is through consistent branding across the City organization and throughout the community to convey the message that Avondale is a community of choice for residents, visitors and businesses.

**DISCUSSION:**

In February 2012, Avondale issued a Request for Qualifications (RFQ) for consultants to assist in preparing a comprehensive branding initiative and a full marketing plan. The RFQ sought a qualified consulting firm with experience in solid market research (both qualitative and quantitative), strategic planning, and corporate identity/branding - including logo development and graphic standards, creative, collateral, interactive marketing, promotions, and recommendations for implementation and tracking.

Seven (7) firms responded to the RFQ, five of which were deemed responsive proposals. Staff evaluated the five proposals, selecting the top three for an oral presentation and interview. Strategic Advisory Group (SAG) scored the highest among the finalists. The panel was particularly impressed by SAG's proposed strategy to incorporate, as part of the branding process, an inclusive approach with significant community and stakeholder engagement, coupled with a strong track record in creative branding for cities and similar organizations.

The intent is to roll out the new branding campaign in the Fall/Winter of 2013.

**BUDGETARY IMPACT:**

SAG's services for the year-long project is \$90,200. Their fees will be covered by carry-over savings from the Economic Development and Community Relations departments' budgets.

**RECOMMENDATION:**

Staff recommends approval of the Professional Services Agreement between the City of Avondale and Strategic Advisory Group (SAG) for city branding and consulting services.

## ATTACHMENTS:

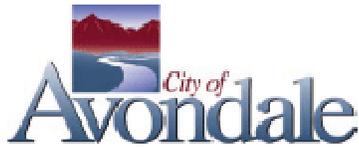
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# CITY COUNCIL REPORT

**SUBJECT:**

Professional Services Agreement – Dick & Fritsche  
Design Group – Northwest Public Safety Facility  
Buildout

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Charles Andrews, P.E., City Engineer, 623-333-4216

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a Professional Services Agreement with Dick & Fritsche Design Group (DFDG) to provide architectural design services for the completion of the Northwest Public Safety Facility in the amount of \$59,097, authorize the transfer of contingency funds to line item 319-1225, Northwest Public Safety Facility, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The Northwest Public Safety Facility was designed in 2009 and constructed in 2010. Due to budget concerns, the Fire Department portion of the Project was completed as a shell only, with no interior or site improvements.

**DISCUSSION:**

This Project consists of design and construction services to complete the Fire Department buildout in the Northwest Public Safety Facility. Design and construction will be based on the existing design and conducted in conformance with all existing applicable City of Avondale guidelines and codes.

The scope of work for this project includes, but is not limited to:

- Complete buildout of the Fire Department interior work, including concrete floor slab, interior partitions and masonry walls, ceiling, insulation, interior finishes and millwork, plumbing, HVAC, electrical, communications systems and roof-mounted equipment.
- Remove temporary infill walls and install exterior doors
- Design new exterior site work
- Gas lines and emergency generator provisions and site utility extensions
- Completion of the shared fitness facility
- Updating the selection and layout of the Furniture, Fixtures and Equipment (FF&E)

**SELECTION PROCESS:**

In accordance with the City's Procurement Policy, proposals from three firms on the Professional Consultants Selection List were evaluated. It was determined that DFDG was the best qualified firm to provide the architectural design services for this project. DFDG provided the architectural design services of the original Northwest Public Safety Facility and has knowledge of the project conditions.

**SCHEDULE:**

The tentative schedule is as follows:

Design

Notice-to-Proceed - May 2013

Final Design - June 2013

**BUDGETARY IMPACT:**

Funding for this project is in place however, the appropriation is not available until next fiscal year. It is requested that \$60,000 in contingency funding be transferred to CIP line item, 319-1225, Northwest Public Safety Facility, to cover the design expenditures this fiscal year.

**RECOMMENDATION:**

Staff recommends that the City Council approve a Professional Services Agreement with Dick & Fritsche Design Group to provide architectural design services for the completion of the Northwest Public Safety Facility in the amount of \$59,097, authorize the transfer of contingency funds to line item 319-1225, Northwest Public Safety Facility, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

[PSA - Dick and Fritsche](#)

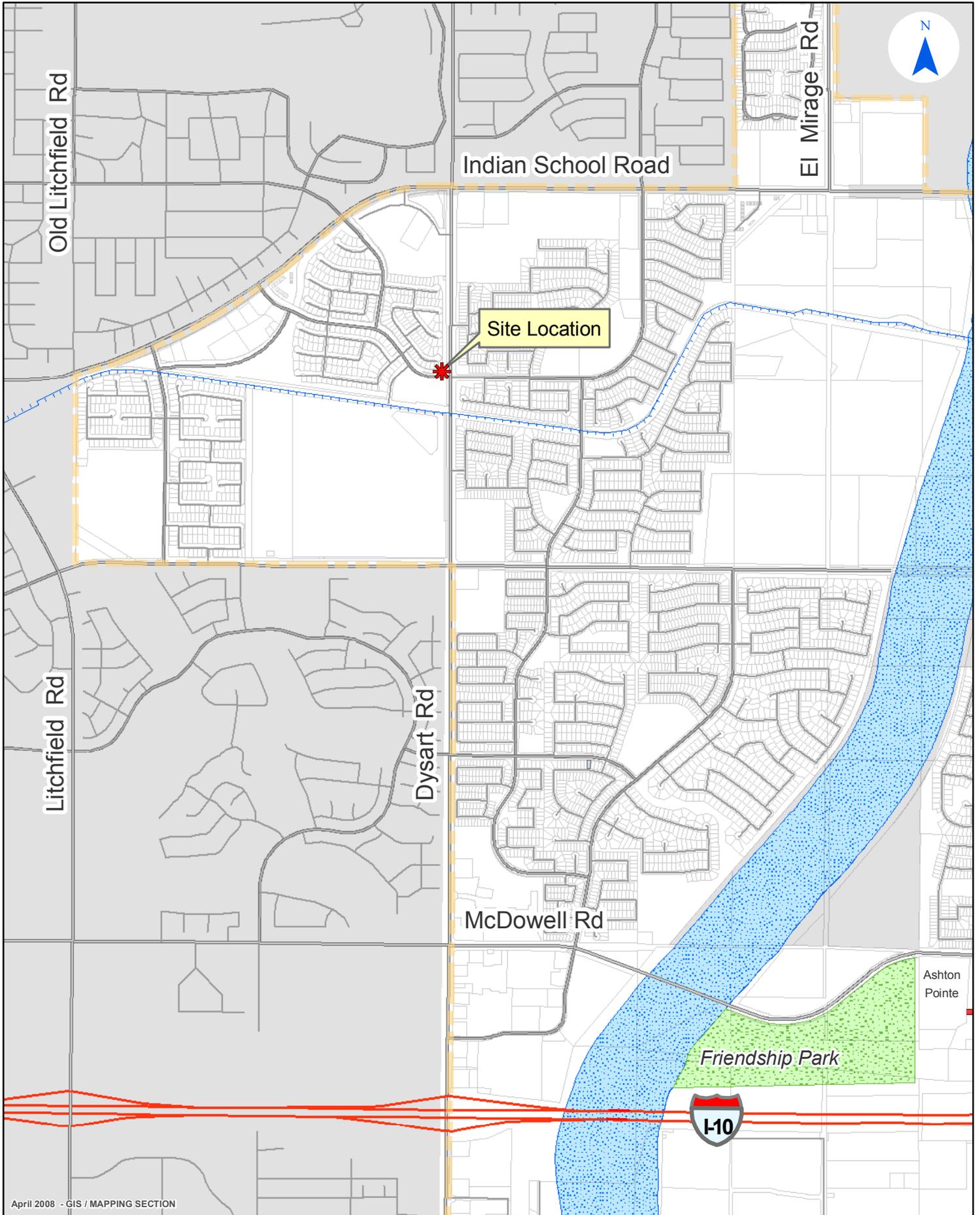
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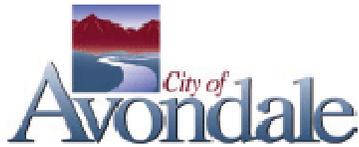
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# VICINITY MAP



April 2008 - GIS / MAPPING SECTION

## CITY OF AVONDALE Northwest Public Safety Facility



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3099-513 - Owner-Occupied Housing Rehabilitation Program Policies and Procedures

**MEETING DATE:**

May 6, 2013

**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 adopt a resolution adopting the Owner-Occupied Home Rehabilitation Program Policies and Procedures as amended. Adoption of the revised policies and procedures, as requested by ADOH, will allow the City to meet the conditions set forth by ADOH in order to receive \$440,000 in awarded grant funds.

**BACKGROUND:**

City Council authorized the Consolidated Plan in April of 2010 which contained as a strategy the preservation of the City's existing single-family housing stock. The current Substantial Home Rehabilitation Program is funded with HOME funds and continues to impact the city's low income neighborhoods in a positive way. There continues to be a high demand and need for this program. This grant will allow the City to direct its HOME Investment Partnership Program funding toward homebuyer assistance without sacrificing one program for the other.

**DISCUSSION:**

ADOH has awarded to the City \$440,000 for this purpose, conditioned upon the City making the requested revisions/clarifications to the program policies and procedures and, that they be adopted by Council through Resolution.

Revisions included the following:

1. Additional information regarding energy efficiency and energy star guidelines to include weatherization and pre/post energy audits.
2. Inclusion of a 10% retainage on all contractor invoices.
3. Clarification of loan servicing policy to include the following language: *The principal amount is reduced annually by an equal amount which would cause the principal amount to be 100% forgiven at the end of the retention period.*

NFS staff is requesting that Council adopt the amended policies and procedures to ensure the awarded funding for the Housing Rehabilitation Program.

**BUDGETARY IMPACT:**

No general fund resources are necessary.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution approving the Avondale SHF Owner Occupied Home Rehabilitation Policies and Procedures as amended.

## ATTACHMENTS:

Click to download

[Resolution 3099-513](#)

## **RESOLUTION 3099-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ADOPTING THE AVONDALE OWNER-OCCUPIED HOME REHABILITATION PROGRAM POLICIES AND PROCEDURES, AMENDED AND RESTATED MAY 6, 2013.

**WHEREAS**, the Council of the City of Avondale (the “City Council”) submitted a grant application (the “Application”) to be considered by the Arizona Department of Housing (“ADOH”) for funding for the City of Avondale (the “City”) Owner-Occupied Home Rehabilitation Program (the “Program”); and

**WHEREAS**, the City adopted Owner-Occupied Home Rehabilitation Program Policies and Procedures on November 5, 2012 (the “2012 Policies”), to guide the conduct of the Program and submitted the Policies with the Application; and

**WHEREAS**, ADOH has awarded grant funding to the City for the Program and, as a condition of the award of the grant funding, ADOH has requested certain changes to the 2012 Policies; and

**WHEREAS**, the City Council desires to adopt amended and restated Owner-Occupied Home Rehabilitation Program Policies and Procedures to conform to ADOH’s request and accept the grant funding.

**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 Avondale Owner-Occupied Home Rehabilitation Program Policies and Procedures, Amended and Restated May 6, 2013, are hereby adopted in substantially the form attached hereto as Exhibit A.

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

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3099-513

[Avondale Owner-Occupied Home Rehabilitation Program  
Policies and Procedures, Amended and Restated May 6, 2013]

(State Housing Fund)

See following pages.

**AVONDALE OWNER-OCCUPIED HOME REHABILITATION  
PROGRAM POLICIES AND PROCEDURES,  
AMENDED AND RESTATED MAY 6, 2013**

**(State Housing Fund)**

1. **Program Design, Goals and Objectives.** The City of Avondale (the “City”) Neighborhood and Family Services Department (“NFSD”) has been operating an Owner-Occupied Home Rehabilitation Program (the “Program”) since 2007. The Program was established in response to the prevalence of substandard housing conditions in the City’s low-income neighborhoods, many of which present imminent threats to the health and safety of the occupants. The Program is available only to low-income owner-occupied households in the City whose homes have one or more hazardous conditions that threaten the health and safety of the occupants. The maximum State Housing Fund investment per unit for rehabilitation is \$55,000 and the minimum investment is \$1,000. There may be instances when the City will invest additional Community Development Block Grant (“CDBG”) funds in the form of a grant up to a maximum of \$10,000 per unit. This funding is provided at the City’s discretion through the Emergency Repair Program. In the case that full replacement of a mobile/manufactured home is necessary, the maximum State Housing Fund investment will not exceed \$80,000; however up to an additional \$40,000 in Maricopa County HOME Consortium funds allocated to the City may be used. Funding for home rehabilitation is provided in the form of a forgivable loan to the homeowner. The NFSD is housed in the City’s Community Center which is located in the Historic Avondale Neighborhood, the largest low-income neighborhood in the City. The NFSD is a one-stop-shop for low-income residents providing services which include the Community Assistance Program, the Weatherization Program, the Emergency Food Box Program and Code Enforcement.

2. **Staffing and Administrative Structure.** The Program is operated by the City’s NFSD Housing Division. Administration of the Program is the responsibility of the CDBG Program Manager under the general direction of the NFSD Director. Application intake and qualification is conducted by the Housing Program Coordinator. Rehabilitation services are conducted by a rehabilitation specialist.

3. **Marketing and Advertising Method.** The NFSD receives a steady stream of applications for the Program through referrals from staff working in the various NFSD program areas. Numerous referrals are also received by residents who have been previously assisted or who have seen program information which is available at various locations throughout the City. NFSD staff disseminates written information in English and Spanish during numerous community events in which they participate. The Program is also marketed on the City website and other available media. All written materials provide information regarding fair housing, language assistance and handicap accessibility. Bilingual staff is available.

4. **Application and Wait List Procedures.** Candidates complete an application and provide income eligibility documentation, proof of ownership and homeowner’s insurance. Program staff will visually verify original documents and copies will be obtained for the Program file. Income eligibility is determined following the U.S. Department of Housing and Urban Development (“HUD”) Section 8 guidelines based on household income. Eligible beneficiaries’ household income will not exceed 80% of the Area Median Income Limits as

determined by HUD. A limited title search will be performed to ensure that the property is free of restrictions or encumbrances that unduly restrict the good and marketable nature of the ownership interest, such as liens and non-owner occupants named on the deed. A formal wait list of qualified applicants is created and maintained. All eligible applicants will be placed on this list in the order in which their application was received. Applicants are notified of the need to re-qualify if they remain on the waiting list over six months. Each household on the waiting list is provided 30 days to re-qualify and remain on the waiting list. Program staff will prioritize immediate health and safety hazards and reserves the right to prioritize based on household type (i.e. elderly, disabled, households with children). It is the City's policy to serve all persons regardless of race, color, religion, gender, national origin, age or disability. Persons requiring hearing, visual, mobility, language or other accommodations may contact the City at 623-333-2700, or TDD 623-333-0010 to make special arrangements.

5. **Rehabilitation Standards.** All work shall be performed in accordance with City codes and ordinances, HUD Housing Quality Standards, Maricopa HOME Consortia Rehabilitation Standards, the State Rehabilitation Standards, Energy Star, International Energy Conservation Code (IECC, 2009 edition, or better) and the Arizona Governor's Office of Energy Policy Weatherization Standards.

6. **Method of Determining Scope of Work.** After program eligibility has been documented and verified, the rehabilitation specialist will inspect the property to determine the repairs needed. The rehabilitation specialist will inspect each property for issues regarding Housing Quality Standards ("HQS") and/or building code violations and will meet with the homeowners to discuss their needs. The scope of work shall address all deficiencies identified that affect the safety and habitability of the home. A focus on improving the overall energy efficiency and sustainability of the home will serve as a guide in the development of the scope of work. Examples of repairs include roofing, heating and cooling, plumbing, electrical and accessibility issues.

7. **Energy Efficiency/Energy Star Guidelines.** All projects will be weatherized to be in compliance with the Arizona Governor's Office of Energy Policy Weatherization Standards. All weatherization work will be performed by a Building Performance Institute certified weatherization professional. The weatherization professional will conduct both a pre-construction energy audit and a post construction compliance inspection. The energy audit will utilize pressure diagnostics, infrared cameras and other equipment to identify air leaks, duct leaks, insulation deficiencies, inefficient appliances, venting problems and other energy issues, which will inform the scope of work. Energy efficient improvements made will be cost effective, further ensure long-term affordability, increase homeowner sustainability and improve the overall appeal of the assisted home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products. Improvements may include such items as compact fluorescent light bulbs, Energy Star rated appliances and lighting fixtures, energy efficient HVAC systems, low-flow water fixtures and other green products as appropriate. The City will make every effort to incorporate "green" technologies, budget permitting and where appropriate, such as tank-less water heaters, solar energy, water harvesting and reuse and low or no volatile organic compound products and materials.

8. **Unit Inspection, Work Write-Up and Cost Estimate.** After determining income eligibility, the rehabilitation specialist will inspect the property to determine the rehabilitation

needs. Based on the inspection, a scope of work will be developed according to the building safety codes adopted by the City and a cost estimate will be developed. The scope of work shall address the required repairs that affect the safety and habitability of the home and will be reviewed by the rehabilitation specialist with the homeowner.

9. **Bidding Process and Contractor Selection.** The City will maintain a list of qualified contractors; contractors not on the list will have the opportunity to be added to the pre-qualified list on a monthly basis. This opportunity will be advertised in the West Valley View quarterly and continuously on the City's website. Prior to award, licenses and insurance are verified and the Federal Excluded Parties List is checked. No contractors, including their subcontractors, will be awarded a project if they appear on the Federal Excluded Parties List or their licenses or insurance are expired. Only licensed general contractors will be allowed to perform the work. The City will advertise, and submit to pre-qualified contractors, requests for quotations for individual projects on an ongoing basis. General contractors wishing to perform work on a project must (a) submit a completed Statement of Qualifications, (b) meet the minimum qualifications threshold, (c) be placed on the pre-qualified list and (d) submit a quotation in response to request for quotations for each project. All quotations must be hand-delivered or mailed by the contractor to the Program office and received by the quotation due date and time. Late submittals will not be accepted. Because timeliness of the project completion is critical to the success of the Program, quotations may be awarded based on the lowest responsible and responsive quotation as well as the contractor's overall ability to complete the project on time and the responsibility and qualifications of the contractor. Contractor selection and notification will occur within three business days of the quotation due date. The homeowner may request to review the submitted quotations with Program staff. Every reasonable effort is made to obtain a minimum of three quotations per project.

10. **Pre-construction Conference.** The rehabilitation specialist will conduct a pre-construction conference for all projects. This conference will include the homeowner and the selected contractor. The rehabilitation specialist will introduce the two parties, answer any questions they may have and serve as a liaison between the contractor and the homeowner. The contract and notice to proceed will be reviewed with both parties and signed at this time.

11. **Construction Inspection Process.** The rehabilitation specialist will monitor construction throughout the process and perform a final inspection to ensure that work performed meets HQS and local building code and all required code inspections have been completed. A final walk-through is done with the homeowner, at which time the homeowner will be asked to sign off on a project completion certificate indicating that work was performed to the homeowner's satisfaction and that all warranty documentation has been provided. If the homeowner refuses to sign the completion certificate, the rehabilitation specialist shall (a) note the homeowner's reasons for such refusal and (b) inspect or cause to be inspected any items the homeowner has indicated are incomplete or unsatisfactory. If, in the rehabilitation specialist's opinion, the conditions objected to by the homeowner are in conformance with the plans and properly constructed, the project shall be deemed accepted.

12. **Housing Maintenance and Education Services.** The rehabilitation specialist will educate each homeowner as to the proper use and maintenance of newly repaired or installed equipment/appliances and provide general home maintenance educational information to the homeowners regarding items such as filter replacement. The importance of budgeting for home

repairs/maintenance and maintaining homeowners insurance will be stressed. All warranty information will be reviewed with the homeowner and a general home maintenance schedule will be provided. All contractors are required to provide the homeowner a two year warranty on their workmanship.

13. **Temporary Relocation Policy.** Program staff will offer temporary relocation to homeowners as needed. Temporary relocation is normally provided for through an extended-stay establishment that includes a kitchenette. All relocation costs shall be covered as part of the total maximum repair cost per unit. If the homeowner has not been relocated during the construction period, every reasonable effort is made to minimize the disruption to the homeowners' daily routines.

14. **Lead Based Paint Activities.** Program staff will follow the HUD Lead Based Paint Regulations (24 CFR 35). All homes built prior to 1978 will receive a lead based paint test and risk assessment to determine lead hazards. If hazards are present, a licensed lead abatement contractor shall perform all lead abatement work or interim controls and will obtain clearance test results. Homeowners will be provided with a copy of the *Renovate Right* brochure, any test results, risk assessment report and clearance test reports.

15. **Method of Determining Before and After Rehabilitation Value.** The rehabilitation specialist will obtain a property valuation based on comparable homes and home sales data in the area. This amount is used to determine the before rehabilitation value of the home. Once the contract is awarded, the rehabilitation cost is added to the before value of the home and compared to the current Federal Housing Administration 203(b) limits to ensure that the after rehabilitation value does not exceed 95% of this limit. The final after rehabilitation value is determined once the project is completed and the total investment amount is added to the before rehabilitation value.

16. **Construction Payments and Lien Releases.** Contractors will be paid on a reimbursement basis for completed and verified work. Each pay request will be subject to a retention fee of no less than 10%. The final payment will not be paid until the final walk-through has been completed, all work has been approved (including punch list items) and the final lien waiver has been received. At time of payment of the final pay request, the retention amount will be included. Each performing contractor must sign a lien release upon completion of project and prior to receiving final payment. A copy will be maintained in the homeowner's file.

17. **Loan Servicing Policy/Procedures Including Lien Releases.** This assistance is provided to the homeowner in the form of a forgivable loan for a set period of affordability based on the amount of investment. Forgivable loans are non-interest bearing and require no payments provided the homeowner maintains ownership of the home and the home remains their primary residence. The principle amount is reduced annually by an equal amount which would cause the principal amount to be 100% forgiven at the end of the retention period. The lien is secured through a promissory note and deed of trust recorded against the assisted property. The City is named the beneficiary on all documents. Loan forgiveness is conditioned upon the homeowner complying with the terms of the deed of trust and promissory note. Copies of these retention documents are kept in the homeowner's file. The lien may be released when the homeowner (a) satisfies all the terms of this Program and the recapture period has expired or (b) pays the remaining amount due on the lien.

A title search will be completed on each home as part of the qualification process. Homes that are over-encumbered, such that the City's lien priority would not allow the City to recover or the liens would be in excess of the property's value, will be deemed ineligible. Homeowners will be required to sign lien documents prior to issuance of the Notice to Proceed. Lien documents will then be forwarded to the selected title agency for processing and recordation with a requirement that executed copies be sent to the City once recorded.

18. **Refinancing Policy.** Refinancing will not be allowed after completion of the rehabilitation and prior to loan repayment or expiration of the recapture period, except when the refinance results in a fixed rate loan and lowers the monthly payment. The term of the loan may be lengthened so long as it lowers the monthly payment. The City Manager or authorized designee shall, in his/her sole discretion, determine if the City will consent to subordination of the Program lien to a refinancing loan. Under no circumstances will loan subordination be allowed for refinancing that includes a *cash-out* option.

19. **Grievance and Quality Assurance Procedures.** Any grievance by the homeowner relating to construction of the improvements to his/her property as part of the Program should be addressed with the rehabilitation specialist, in writing. If the homeowner feels there has not been an acceptable resolution by the rehabilitation specialist within two weeks of the date that the written grievance was delivered to the rehabilitation specialist, the homeowner may then submit his/her grievance in writing to the City's CDBG Program Manager. The CDBG Program Manager will have ten working days to respond in writing. If response from the CDBG Program Manager is not satisfactory to the homeowner, the complaint should be forwarded in writing to the NFSD Director. The NFSD Director will have ten working days to respond in writing. If the response is still not satisfactory, the complaint shall be submitted in writing to a mutually agreed upon third party moderator for final resolution. All decisions made by the moderator will be final and binding upon the parties.

20. **Program Income.** In the event that Program staff acquires any recaptured or repayment of assisted amounts from the homeowners, it will be documented in the bi-monthly report in a current contract period or a direct notification to the ADOH. The recaptured or repayment amount will be submitted to ADOH.

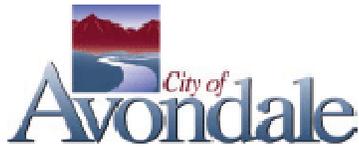
21. **Pet Policy.** Pets are the sole responsibility of the homeowner during construction. Any temporary relocation of pets will be at the homeowner's expense. Pets are not allowed to be kept inside the homes receiving assistance under the Program, but they may be kept outside if the pet is cared for and contained; provided, however, that any violation of local code by the homeowner with respect to pets must be resolved. Any such violation during the application process may result in the homeowner becoming ineligible for the Program. If the homeowner fails to resolve such violation during the rehabilitation, the City may relocate the pet at the homeowner's expense.

22. **Excessive Debris/Sanitary Conditions.** To be eligible for assistance, removal of excessive debris on the property which is in violation of local code or which obstructs or causes a safety hazard will be required. If, upon initial inspection, the home is found to be unsanitary, i.e., animal feces/urine, unhealthy indoor air quality, excessive clutter which obstructs inspection, the homeowner will be required to remediate the condition of the home or face

becoming ineligible for the Program. Failure to remediate will result in a Code Enforcement Citation and ineligibility for the Program.

23. **Criminal Activity/Threatening Behavior of Occupants**. The health and safety of the residents as well as the Program staff is critical. If before or during the application process, the address has been the location of any criminal activity as a result of the homeowner's occupancy or if any occupant exhibits threatening behavior toward Program staff or contractors, the property will be deemed ineligible. If such activity or threatening behavior occurs during the rehabilitation work, the City may take any steps necessary to allow for safe continuation of the rehabilitation work.

24. **Continuing Obligations**. The homeowner receiving assistance has a continuing obligation to comply with local, state and federal laws and regulations during and after the rehabilitation.



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3100-513 - Intergovernmental Agreement with the City of Phoenix for Federal Transit Funding

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Phoenix for Federal Transit Administration Funding (FTA) to pass through grant funding for \$1,000,279 and authorize the Mayor and City Clerk to execute this agreement.

**BACKGROUND:**

In 2002, the US Census Bureau designated the City of Avondale and surrounding communities, including sections of Goodyear, Litchfield Park, Glendale, Phoenix, and Maricopa County, as a separate urbanized area from the Phoenix-Mesa urbanized area. Because the Avondale Urbanized Area (UZA) population area is under 200,000, federal regulations allows the Avondale UZA to spend its federal funds on both operating and capital expenditures. Operating expenses require a 50% local match, while capital expenses require a 20% local match. The City of Phoenix is designated as the Metropolitan Planning Organization, for federal transit related operations, for Phoenix and the surrounding communities. This allows the City of Phoenix to submit a single federal grant application, which incorporates the funding request of all the eligible communities. The Avondale UZA is designated as a sub-recipient in the application.

**DISCUSSION:**

The Avondale Urbanized Area transit plan was approved by the City Council on November 17, 2003. Avondale staff worked with City of Phoenix representatives to incorporate the funding needs identified in the transit plan as part of the the federal grant application The City of Phoenix has submitted the grant application and will act as the administrator of the grant funding. The City of Phoenix will reimburse the City of Avondale and surrounding communities for all eligible operating and capital expenses incurred under the grant pass through agreement. The City of Avondale and surrounding communities will provide local matching funds and all necessary reports as required. The funding will be utilized to operate the Zoom Neighborhood Circulator and any other transit that is approved after the Southwest Valley Local Transit System Study.

**BUDGETARY IMPACT:**

Based on the service and funding estimates, Avondale is required to provide the match funding in the amount of \$1,000,279, which is available in the transit fund budget 215.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution approving an Intergovernmental Agreement with the City of Phoenix for Federal Transit Administration Funding (FTA) to pass through grant funding in the amount of \$1,000,279 in federal funds and authorize the Mayor and City Clerk to execute this agreement.

## ATTACHMENTS:

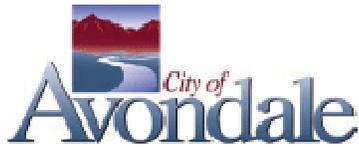
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[Resolution 3100-513](#)

DUE TO ITS SIZE, THIS DOCUMENT  
HAS BEEN POSTED SEPARATELY

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<http://www.avondale.org/DocumentCenter/View/32127>



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3101-513 - Change Order to Intergovernmental Agreement with the City of Phoenix for Dial-A-Ride Services

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a resolution approving a change order to the Intergovernmental Agreement with the City of Phoenix for fixed route transit services and ADA required services and authorize the Mayor and City Clerk to execute the appropriate documents.

**BACKGROUND:**

On behalf of the Avondale Urbanized Area (Avondale and Goodyear), the City of Avondale entered into an Intergovernmental Agreement with the City of Phoenix on June 6, 2011 for transit services.

**DISCUSSION:**

All routes that Phoenix provides for Avondale will now be paid through the Regional Transit Sales Tax (Proposition 400) funds. Phoenix will bill RPTA directly. The only other service that Phoenix provides for Avondale will be the American's with Disabilities Act (ADA) Dial-a-Ride Service. The FTA requires that service be provided within 3/4 mile of any fixed route service. Proposition 400 also allocates funds for ADA services. This ADA service also covers Tolleson and Goodyear and they will be billed accordingly.

**BUDGETARY IMPACT:**

The total cost to the City of Avondale during FY14 will be an estimated \$201,457. However, Goodyear and Tolleson will be billed for their portion. Valley Metro RPTA will reimburse Avondale from the regional Prop 400 sales tax.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution approving a Change Order to the Intergovernmental Agreement with the City of Phoenix for ADA required services for an estimated annual cost of \$201,457 and authorize the Mayor and City Clerk to execute the appropriate documents.

**ATTACHMENTS:**

Click to download

[Resolution 3101-513](#)

**RESOLUTION NO. 3101-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING A CHANGE ORDER ADJUSTING THE CONTRACT AMOUNT FOR THE INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FIXED-ROUTE TRANSIT SERVICES RELATING TO DIAL-A-RIDE SERVICE.

**WHEREAS**, the City of Avondale (the “City”) entered into an intergovernmental agreement dated June 6, 2011, with the City of Phoenix relating to fixed-route transit services (the “Agreement”); and

**WHEREAS**, the Council of the City of Avondale desires to approve Change Order No. 2, dated April 17, 2013 (the “Change Order”) to the Agreement for the continuation and adjustment of fixed-route transit services relating to Dial-a-Ride services for the City, as described in the Agreement and as amended by the Change Order.

**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 Change Order is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. The expenditure of \$201,457.00 for Dial-a-Ride services, resulting in an increase in the total funds designated for fixed-route transit services in the amount of \$1,480,333.00, as described in the Change Order, is hereby authorized.

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 cause the execution of the Change Order and to take all steps necessary to carry out the purpose and intent of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3101-513

[Change Order]

See following pages.

CITY OF PHOENIX  
PUBLIC TRANSIT DEPARTMENT  
**CONTRACT CHANGE ORDER**

Change Order No.  
**2**

Contract No.  
**131437**

Issued To: (Name of Contractor or Consultant)  
**City of Avondale**

Date  
**4/17/2013**

**Project Description: Transit Service Agreement**

**YOU ARE HEREBY requested to make the following changes to the contract, or to do the work described below which is not included in the contract. (Give brief description of work, estimate of quantities, fees or prices to be paid, etc.)**

This contract change order is to provide complimentary Dial-a-Ride service for the City of Avondale.

The total estimated annual Dial-a-Ride hours of service to be provided to Avondale for 2013-14 are 3,787. The total estimated charge for Dial-a-Ride service provided by Phoenix is \$227,927, with an estimated credit for fare revenue of \$26,471. Total net cost for the service is \$201,457.

Current projected payments will consist of one (1) payment of \$16,789, eleven (11) payments of \$16,788.  
All payments shall be made as follows:

- Payment No. 1 \$16,789 is due on or before July 31, 2013
- Payment No. 2 \$16,788 is due on or before August 31, 2013
- Payment No. 3 \$16,788 is due on or before September 30, 2013
- Payment No. 4 \$16,788 is due on or before October 31, 2013
- Payment No. 5 \$16,788 is due on or before November 30, 2013
- Payment No. 6 \$16,788 is due on or before December 31, 2013
- Payment No. 7 \$16,788 is due on or before January 31, 2014
- Payment No. 8 \$16,788 is due on or before February 28, 2014
- Payment No. 9 \$16,788 is due on or before March 31, 2014
- Payment No. 10 \$16,788 is due on or before April 30, 2014
- Payment No. 11 \$16,788 is due on or before May 31, 2014
- Payment No. 12 \$16,788 is due on or before June 30, 2014

All other terms and conditions of this agreement remain the same.

1. Amount of this Change Order	2. Amt. Of Prior Change Orders	3. Orig. Contract Amt.	4. Adj. Contract Amt. (1, 2 & 3)	Council Approved	
(\$201,457)	(\$197,634)	(\$1,081,242)	(\$1,480,333)		

**ACCEPTANCE**

We, the undersigned, have given careful consideration to the change proposed, and hereby agree; if this proposal is approved that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work specified, and will accept as full payment therefore the fees or prices shown above.

**FIRM City of Avondale**

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE SENT BY CITY OF PHOENIX: \_\_\_\_\_

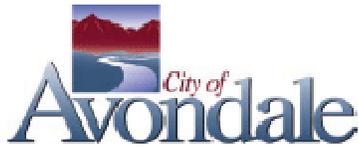
REQUESTED BY:	DATE
_____ Markus Coleman, Project Manager	
RECOMMENDED BY:	DATE
_____ Jesus Sapien, Deputy Public Transit Director	
PTD FISCAL SECTION REVIEW:	DATE
_____ Dianna Evans, Department Budget Supervisor	
CHECKED AS TO AVAILABILITY OF FUNDS BY:	DATE
N/A _____ Budget and Research Department	
APPROVED FOR THE CITY MANAGER BY:	DATE
_____ Neal Young – Senior Executive Assistant to the City Manager / Ted Mariscal-----	

REVENUE       EXPENDITURE

**CITY OF AVONDALE**  
**PURCHASE OF TRANSIT SERVICES**  
**CONTRACT ESTIMATE**  
**DIAL A RIDE ONLY**  
**FY 2013-14**

Service	Service Provider	Annual Hours	Rate Hour	Annual Cost	Estimated Revenue	Net Cost
Dial-a-Ride	MV Transportation	3,787.2	\$ 60.1830	\$ 227,927	\$ (26,471)	\$ 201,457
<b>Totals</b>		<b>3,787</b>		<b>\$ 227,927</b>	<b>\$ (26,471)</b>	<b>\$ 201,457</b>

Amount Due	Due Date
\$ 16,789	July 31, 2013
16,788	Aug 31, 2013
16,788	Sept 30, 2013
16,788	Oct 31, 2013
16,788	Nov 30, 2013
16,788	Dec 31, 2013
16,788	Jan 31, 2014
16,788	Feb 28, 2014
16,788	Mar 31, 2014
16,788	April 30, 2014
16,788	May 31, 2014
16,788	June 30, 2014
<hr/>	
Total: \$ 201,457	



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3102-513 - Amended and Restated Intergovernmental Agreement with the Regional Public Transit Authority

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a Resolution approving an Amended and Restated Intergovernmental Agreement with the Regional Public Transportation Authority (RPTA) for FY 2014 Zoom operations, funding for American with Disabilities Act (ADA) Paratransit Services and acquisition of replacement Zoom buses.

**BACKGROUND:**

During 2010 the Maricopa Association of Governments, on behalf of the City of Avondale, conducted a feasibility study and determined that operation of a local Circulator would benefit the community. Avondale started the Zoom Neighborhood Circulator in July 2011 and has seen continued success since inception. The buses that are used for the Zoom neighborhood circulator are nearing the end of their useful life and need to be replaced.

This IGA also provides funding through the RPTA for ADA paratransit services. This agreement provides partial reimbursement of ADA costs with funds provided from Proposition 400 sales tax. This program allocates a portion of the funds to cities and towns in Maricopa County for ADA service over the life of the twenty-year program.

**DISCUSSION:**

The Zoom Neighborhood Circulator is a 17-mile route that runs throughout the City of Avondale and Tolleson and provides connectivity to fixed routes and greater access to Estrella Mountain Community College and other activity centers. In July 2012, Saturday service was added: routes running through the City of Tolleson were added as well. Ridership continues to improve, reaching over 15,000 riders monthly. The Zoom buses are nearing the end of their useful life and need to be replaced. Avondale will use Federal Transportation Funds to purchase eight (8) new buses for the route. These buses will be slightly bigger than the current buses and will provide access to more riders through Avondale. RPTA is responsible for the procurement of the buses

RPTA is legislatively mandated to implement the transit element of the Regional Transportation Plan, which includes bus operations, bus capital and rail capital. The RPTA Board of Directors oversees the implementation of the transit element of the plan, also known as the Transit Life Cycle Program (TLCP). In addition to representation at the Board level, staff attends monthly operational meetings to advise the RPTA Executive Director on issues related to the implementation of the TLCP. As part of the TLCP, seven percent of Proposition 400 is required to be used for ADA Paratransit Service.

**BUDGETARY IMPACT:**

The total estimated cost to the City of Avondale for Fiscal Year 2014 for Zoom Operations is \$929,827. The funding for this project is available in the Transit Fund 215.

The costs for providing ADA services are also included in Fund 215. This agreement with RPTA provides for reimbursement to Avondale for ADA paratransit expenses up to \$173,930 for Fiscal Year 2014.

The estimated costs for purchasing eight buses for Zoom operations is \$216,289 which is 20% of the total cost of the eight buses, the remaining 80% of funding will be from the FTA. The 20% match is included in Fund 215.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution approving an Amended and Restated Intergovernmental Agreement with the Regional Public Transit Authority for Fiscal Year 2014 Transit services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

[Resolution 3102-513](#)

**RESOLUTION NO. 3102-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY FOR PUBLIC TRANSPORTATION SERVICES.

**WHEREAS**, the Mayor and Council of the City of Avondale (the “City Council”) passed and adopted Resolution No. 2972-511 on May 16, 2011, approving a transit services agreement (Contract #106-31-2012) with the Regional Public Transportation Authority (the “RPTA”), which agreement was subsequently amended by Resolution No. 3007-1011, passed and adopted on October 17, 2011 and by Resolution No. 3072-912, passed and adopted on September 17, 2012, (collectively, the “Circulator Services Agreement”); and

**WHEREAS**, the City Council passed and adopted Resolution No. 3073-912 on September 17, 2012, approving a transit services agreement relating to ADA Paratransit Services (Contract #106-34-2013) with the RPTA (the “Paratransit Services Agreement”); and

**WHEREAS**, the City Council desires to consolidate the Circulator Services Agreement and the Paratransit Services Agreement into one agreement with the RPTA for public transportation services.

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

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

SECTION 2. The Amended and Restated Intergovernmental Agreement with the RPTA for public transportation services, which acts to consolidate the Circulator Services Agreement and the Paratransit Services Agreement (the “Agreement”), is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. The Circulator Services Agreement and the Paratransit Services Agreement are hereby revoked and superseded by the Agreement.

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

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

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Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3102-513

[Agreement]

See following pages.

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF AVONDALE (“Member”)  
AND  
THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY  
Contract # 106-75-2014**

THIS TRANSIT SERVICES AGREEMENT (“Agreement”) is made and entered into this 1st day of July, 2013 by and between the City of Avondale, a legal entity duly organized and existing under the laws of the State of Arizona (hereinafter referred to as “Member”) and the Regional Public Transportation Authority, a political subdivision of the state of Arizona (hereinafter referred to as “RPTA”). Member and RPTA are collectively referred to as the “Parties.”

**RECITALS**

WHEREAS, Member has Charter Authority to provide transit services and Charter and statutory authority to enter into Agreements with other entities within Maricopa County to provide transit services (A.R.S. Section 11-951, et seq.); and,

WHEREAS, RPTA is a political subdivision of the state of Arizona, established for the purpose of planning and providing public transportation services (A.R.S. Section 48-5121; A.R.S. Section 48-5101, et seq.); and,

WHEREAS, as a political subdivision of the state of Arizona RPTA “may contract and enter into stipulations of any nature to do all acts necessary and convenient for the full exercise of” its powers granted under A.R.S. Section 48-5101, et seq., including entering into intergovernmental agreements with other governmental entities (A.R.S. Section 11-951, et seq.); and,

WHEREAS, RPTA is willing to provide, and Member is willing to purchase or receive transportation services as detailed in this Agreement; and,

WHEREAS, transit activities are one of those types of activities authorized pursuant to the aforementioned statutory and other authority,

WHEREAS, City and RPTA entered into an IGA on July 1, 2012, IGA#106-31-2012-02 and

WHEREAS, City and RPTA entered into an IGA on July 1, 2012, IGA #106-34-2013 and

WHEREAS, the parties hereto desire to consolidate their two (2) existing IGA’s into a single agreement.

## **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants and considerations herein contained, it is agreed by the Parties as follows:

### **SECTION 1. DEFINITIONS**

The following capitalized terms shall have the following meaning when used in this Agreement, unless a different meaning is clearly intended:

“RPTA” means the Regional Public Transportation Authority, a political subdivision of the State of Arizona.

“Member” means the City of Avondale a member of the Regional Public Transportation

Authority (RPTA) with voting powers.

“Effective Date” means the date on which rights granted hereunder become operative, as specified in Section 6 hereof.

“Force Majeure” means any event which: (i) causes either party to be unable to perform under this agreement; and (ii) is outside the reasonable control of the party unable to perform and could not be avoided by such party through the exercise of due care. Force Majeure events include, without limitation: terrorists, earthquakes, fires, floods, tornadoes, wars, labor strikes or similar accidents, disputes or similar events.

## **SECTION 2. SCOPE OF AGREEMENT**

During the term of this agreement RPTA shall provide the following services:

Regionally Funded Fixed Route Bus Service (Schedule A) means a public system for the transport of passengers by bus that are funded by RPTA Public Transportation Funds (PTF).

Member Funded Fixed Route Bus Service (Schedule B) means a public system for the transport of passengers by bus that are funded by Member.

Americans with Disabilities Act (ADA) Public Transportation Funds (PTF) (Schedule E)  
The RPTA shall transfer to the Member funds allocated by the Board of the RPTA, and specified in Schedule E, for the purposes of reimbursing Member for the cost to provide Paratransit services to ADA certified individuals. The Member shall submit a PTF Reimbursement Request Form, Attachment A, certifying that the costs have been incurred and are eligible for reimbursement.

ADA Platinum Pass Program (Schedule F) The Platinum Pass Program provides trips to customers that are ADA certified through the “in person” assessment to travel on fixed route services at no cost to the customer. The Member subsidizes the trip at 100% and this program is designed to encourage ADA certified individuals to use fixed route services for trips where they can versus traditional type paratransit trips. This program provides cost avoidance for both the participating city and the customer.

Various Capital Projects (Schedule H) Proposed Capital Projects including Fleet Acquisition of fixed route buses. Member expended funds may or may not be eligible for Public Transportation Fund (PTF) or Federal Transit Administration (FTA) grant fund reimbursement for the acquisition of buses. The party responsible for the required local matching funds to FTA grant funds will be defined in Schedule H prior to any vehicle acquisitions

### **SECTION 3. RPTA'S OBLIGATIONS:**

- 3.1 With respect to the services provided hereunder, RPTA, shall:
- a. Negotiate and coordinate the implementation of operating agreements;
  - b. Provide Fixed Route Bus, Dial-a-Ride Paratransit Services or other transit services, administrative services, equipment, personnel and management services directly or through contractors, as provided in this Agreement. The RPTA shall ensure that the contractor(s) are duly qualified, licensed, trained, and have adequate equipment to perform services under this Agreement;
  - c. Provide marketing and merchandising of services;
  - d. Draft and secure approval for annual operating budgets;
  - e. Plan for, prepare changes, and amend service specifications;
  - f. Invoice the Member on a monthly basis for service(s) (often based upon revenue miles) provided to Member;
  - g. Determine, set, and amend as necessary the fare structure for services provided by the RPTA or under contract;
  - h. Convene a Steering Committee, consisting of representatives from the Member, the other participating Members, and the RPTA to coordinate and monitor service and to resolve service and contractual performance issues;
  - i. Provide professional staff as necessary to plan for, develop, contract for, monitor, and adjust service;

- j. Credit Member up to the pre-determined amount of Americans Disabilities Act (ADA) Public Transportation Funds (PTF) for the transport of ADA certified riders;
- k. Provide complaint resolution process;
- l. Recommend service specifications in consultation with the Member;
- m. Provide monthly reports on ridership, revenue collected, and applicable performance standards;

3.2 RPTA will use its best efforts to provide a financial reconciliation within 30 calendar days of the end of each quarter for informational purposes. A reconciliation of all costs of service (including any administrative fees) shall be conducted after the fiscal year end. RPTA will use its best efforts to provide such final year-end reconciliation within 60 calendar days after the end of the fiscal year. If it is found that Member has paid more than its share of the costs of service, RPTA shall credit such overpayment to Member on its next invoice or refund the money to the Member at the Member's choice. Conversely, if Member has under paid its share of the costs of services, RPTA shall invoice the underpayment to Member. Member shall pay all invoices submitted by RPTA to Member within 30 days.

3.3 The RPTA and the Member may conduct service and financial audits, as required, of any Services provided hereunder.

3.4 The RPTA shall provide performance data reports on a monthly basis. The data will be posted on the Valley Metro website [www.valleymetro.org](http://www.valleymetro.org) or within its extra-net site. The paratransit reports shall include at a minimum: ADA ridership versus non-ADA ridership, revenue miles operated, as well as performance indicators by which the Member and the RPTA can evaluate whether the service provider is meeting policies, and service standards.

Fixed route bus reports shall collect the following monthly performance statistics for the Member:

Boardings by Member and Other Members;

Wheelchair Boardings by Member and Other Members; \*

Vehicle Revenue Miles by Member and Other Members;  
Vehicle Revenue Hours by Member and Other Members;  
Operating Days by Member;  
Average number of passengers by revenue mile of service;  
Operating Costs;  
Passenger Revenue by Jurisdiction;  
Percent On-time Performance;  
Service Interruptions;  
Vehicle Breakdowns;  
Wheelchair lift/ramp Breakdowns;  
Accidents;  
Vehicle Accidents;  
Passenger Accidents;  
Passenger Security Incidents;  
Crimes reported; and  
Vehicles Operated per day.

3.5 By February 21 of each year, the RPTA shall provide the Member with a detailed written budget estimate for the provision of transit Services, including the expected sources and amounts of funding for the next fiscal year. If the Member approves the budget estimate, RPTA shall prepare an amendment to this Agreement for Member approval of the budget estimate.

3.6 RPTA shall notify Member of authenticated operations incidents as soon as practicable.

#### **SECTION 4. CITY'S OBLIGATIONS:**

4.1 With respect to the services provided hereunder, Member, shall:

- a. If Member desires services in addition to the Services originally approved in the schedules hereto, Member shall provide funding adequate to finance such services over and above funding provided by the RPTA and Member.

- b. In addition to the funding necessary to pay for actual service or costs, reimburse the RPTA within 30 days for its costs monthly to, monitor and generally administer the service in City.
- c. Provide for local complaint resolution with citizens of the Member;
- d. At Member's election, become members of and participate in all meetings, deliberations, and decisions of any Steering Committee for services provided hereunder.
- e. With respect to services provided hereunder, the Member shall provide traffic control and transit priority measures such as turning movements, on Member streets on regular routes;
- f. The Member may purchase and install bus stop signs and associated amenities;
- g. The Member shall provide advice to the RPTA and to any operator providing service required by this Agreement in the preparation and amendment of service plans;

4.2 If the parties are not able to agree upon renewal terms for the existing Agreement prior to the expiration of the term of the existing Agreement, the Member shall make the payments required to be paid under this Agreement on or before July 1 for the new fiscal year and thereafter for a one hundred eighty (180) day period unless the parties agree upon renewal terms prior to the expiration of such one hundred eighty (180) day period. For example, if there is a disagreement with the proposed rate for the new fiscal year, or if the renewal Agreement is not signed, for any reason, the Member shall make payments at the old rate (the previous year's rate) until such time that a renewal Agreement can be fully approved and executed.

4.3 Member does hereby agree to participate in the Valley Metro Program(s) defined in Section 2 of this agreement.

4.4 Provide a written ninety (90) calendar day notice for major service changes.

4.5 Transit Life Cycle Program: Member shall comply with all applicable laws, ordinances, regulations and codes of the federal, state and local governments. In performing

hereunder, Member shall adhere to RPTA's Transit Life Cycle Program and its approved policies, as they may be amended from time to time, (collectively referred to as the "TLCP").

#### **SECTION 5. TERM OF AGREEMENT**

This Agreement shall be operative for an indefinite term to be amended on an annual basis as service needs and as Public Transportation Fund (PTF) reimbursements are agreed. The Parties do not intend that the term of this Agreement shall exceed any limitation imposed by law, including, without limitation, the laws of the State of Arizona, and agree to comply with any applicable requirements of such laws in connection with any renewal of the term of this Agreement.

#### **SECTION 6. EFFECTIVE DATE**

This Agreement shall take effect only after it has been approved by Member's Council, approved by the RPTA Board of Directors, executed by the duly authorized officials of each of the Parties, approved by the Parties' respective counsel and may be filed with the Member's Clerk. The Effective Date of this Agreement is the date first set forth above.

#### **SECTION 7. GENERAL CONDITIONS**

##### **A. Records and Audit**

All books, accounts, reports, files and other records relating to this Agreement under the custody or control of RPTA or its contractors shall be subject, at all reasonable times, to inspection and audit by Member, FTA, and the City of Phoenix, for five (5) years after completion of this Agreement. Such records shall be produced at RPTA offices as and when requested by Member.

##### **B. Covenant Against Contingent Fees**

Both Parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of Congress, no member of the Member's Council or the RPTA Board of Directors, and no officer, agent, or employee of the City or RPTA has any interest, financially or

otherwise, in this Agreement.

**C. Alteration in Character of Work**

Minor alterations in the character of work shall be authorized in writing by Member and acknowledged by RPTA by letter.

**D. Termination (and/or Changes in Service)**

Member and RPTA hereby agree to full performance of the covenants and obligations contained herein, except that each reserves the right, at its option and sole discretion, to terminate or abandon the service provided for in this Agreement, or any portion thereof.

Termination of this Agreement may be at any time and for any reason, with or without cause, upon providing ninety (90) calendar days prior written notice. Termination shall be effected by delivery of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective.

Upon termination, RPTA shall calculate actual expenses incurred up to and including the date of termination and (if termination was at the election of Member) any penalty or costs whatsoever (including, but not limited to, any costs of such termination as a result of Section 49 U.S.C. 1609 [formerly Section 13(c) of the Federal Transit Act of 1964, as amended] together with any penalty or costs imposed by other funding sources and any related labor costs (the total of which is hereinafter referred to as “termination costs”). If Member has paid RPTA sums in excess of the termination costs, RPTA shall refund the excess; if Member has paid RPTA an amount less than the termination costs, then Member shall pay to RPTA an amount equal to the difference between the termination costs and the amount that Member already has paid under this Agreement. Upon termination of this Agreement, all property used in connection with this Agreement will be promptly returned to the Party holding title thereto, not considering any state or federal funding. Final payment shall be made within sixty (60) calendar days after the

termination of service.

**SECTION 8. ADDITIONAL WORK**

This Section is intentionally left blank.

**SECTION 9. AGREEMENT NON-ASSIGNABLE**

RPTA may not assign or otherwise transfer any of its rights or obligations hereunder to a third Party without the express prior written consent of Member, which may be granted or withheld by Member in its sole and absolute discretion. Any assignment or transfer without such prior written consent shall be void.

**SECTION 10. INDEMNIFICATION**

Except for claims arising solely and exclusively from the negligent or willful acts or omissions of Member, its officers, officials, agents or employees (hereinafter referred to as "Indemnatee"), RPTA shall indemnify, defend, save and hold the Indemnatee harmless from and against any and all claims, actions, liabilities, damages, losses, expenses and costs (including court costs, attorneys' fees and costs of claim processing, primary loss investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), loss or damage to tangible property and economic or financial loss of any character or any nature: (1) arising under this Agreement, or (2) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of RPTA or any of its owners, officers, directors, agents, contractor or employees, including employees from the Member assigned to work full time for RPTA.

It is the specific intent of the Parties to this contract that the Indemnatee shall, in all instances except for loss or damage resulting from the sole and exclusive negligence of the Indemnatee, be indemnified against all liability, loss or damage of any nature whatever for or on account of any injuries to or the death of any person or damages to or the destruction of property belonging to any person, or for economic or financial losses arising out of or in any way connected with the performance of this Agreement.

It is agreed that RPTA will be responsible for primary loss investigation, defense and

judgment costs.

#### **SECTION 11. INSURANCE**

RPTA will maintain in force the insurance program approved the by RPTA Board of Directors and included in RPTA's fiscal year budgets.

#### **SECTION 12. DEFAULT**

Either Party shall be deemed in default under this Agreement upon the failure of such Party to observe or perform any material covenant, condition or agreement on its part to be observed or performed hereunder, and the continuance of such failure for a period of thirty (30) days after written notice by the other Party, as required herein. Such notice shall specify the failure and request it be remedied, unless the Party giving notice agrees in writing to an extension of the time period prior to its expiration. However, if the failure stated in the notice cannot be corrected within the applicable period, it will not give rise to a default hereunder if corrective action is instituted within the applicable period and diligently pursued until the failure is corrected. In the event of a default hereunder, the non-defaulting Party may have a breach of contract claim and remedy against the other in addition to any remedy provided or permitted by law; provided, however, that no remedy that would have the affect of amending any provisions of this Agreement shall become effective without the formal amendment of this Agreement.

#### **SECTION 13. ISSUE RESOLUTION**

Any dispute arising out of the interpretation of any provision of this Agreement, any policy matter or the determination of an issue of fact, which dispute is not resolved at staff level, shall be referred to RPTA's Chief Executive Officer and a representative designated by Member. If, after good faith negotiations aimed at reaching an amicable solution, a dispute cannot be resolved, the dispute shall be presented to the RPTA Board of Directors for resolution. If not resolved at this level, the dispute may be brought before a court of competent jurisdiction in Maricopa County, Arizona.

## **SECTION 14. NOTICE**

Any notice, consent or other communication (“Notice”) required or permitted under this Agreement shall be in writing and either delivered in person, sent by email as PDF or a facsimile transmission, deposited in the United States mail, postage paid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addresses as follows:

If intended for RPTA:

Regional Public Transportation Authority  
Attention: General Counsel  
101 N. 1<sup>st</sup> Avenue, Suite 1300  
Phoenix, AZ 85003

If intended for Member:

City of Avondale  
Attention: Charles P. McClendon, City Manager  
11465 West. Civic Center Drive  
Avondale, Arizona 85323  
Avondale Arizona 85323

and to:

Member’s Public Transit Department  
Avondale Arizona 85323

Notice shall be deemed received at the time it is personally served or, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service, if mailed, ten (10) days after the notice is deposited in the United States mail as provided. Any time period stated in a Notice shall be computed from the time the Notice is

deemed received. Either Party may change its mailing address, FAX number or the person to receive notice by notifying the other Party as provided in this Section.

Notice sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. The requirement for duplicate notice is not intended to change the effective date of the Notice sent by facsimile transmission.

#### **SECTION 15. AMENDMENT**

This Agreement may be modified or amended only by a written document executed by both RPTA and Member, approved as to form by the Member Attorney, and may be filed with the Member's Clerk. Such document shall expressly state that it is intended by the Parties to amend specifically identified terms and conditions of this Agreement.

#### **SECTION 16. INTEGRATION**

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

#### **SECTION 17. APPLICABLE LAW AND LITIGATION**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Arizona. Any and all litigation between the Parties arising from this Agreement shall be litigated solely in the appropriate state court located in Maricopa County, Arizona.

#### **SECTION 18. NON-WAIVER**

No covenant or condition of this Agreement may be waived by any Party, unless done so in writing. Forbearance or indulgence by any Party in any regard whatsoever shall not constitute a waiver of the covenants or conditions to be performed by the other.

**SECTION 19. SEVERABILITY**

Any provision of this Agreement that is prohibited or unenforceable under the laws of the State of Arizona shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

**SECTION 20. BENEFIT AND BINDING EFFECT**

The terms and provisions of this Agreement shall inure to the benefit of and are binding on RPTA and Member and their respective successors and permitted assigns.

**SECTION 21. SURVIVAL**

The indemnifications and limitations on liability provided in this Agreement shall have full force and effect notwithstanding any other provisions of this Agreement and shall survive any termination or expiration thereof.

**SECTION 22. FURTHER ASSURANCES**

The Parties hereto shall execute such other documents and take such other actions as may be reasonably necessary or proper to achieve the intent and purposes hereof.

**SECTION 23. CONFLICTS OF INTEREST**

All Parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

**SECTION 24. RELATED AGREEMENTS**

This Agreement, together with the exhibits, instruments and other documents required to be executed and delivered in connection herewith is intended to be read in conjunction with any and all related agreements and understandings of the Parties with regard to the subject matter hereof.

**SECTION 25. CONSTRUCTION AND INTERPRETATION OF AGREEMENT**

This Agreement, and each of its provisions, exhibits, terms and conditions, has been

reached through negotiations between the Parties. Accordingly, each of the Parties expressly acknowledges and agrees that this Agreement shall not be deemed to have been authored, prepared or drafted by any particular Party, and that the rule of construction that resolves ambiguities against the drafting party shall not be employed in the interpretation of this Agreement.

#### **SECTION 26. THIRD-PARTY BENEFICIARIES**

This Agreement is intended to benefit the corporate and municipal interests of RPTA and Member alone, and no other person shall claim any implied right, benefit or interest in such services. The Parties do not intend to create rights in or remedies to any third party as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established under this Agreement.

#### **SECTION 27. POLICE POWER**

The Parties acknowledge the right vested in Member pursuant to general law to exercise its police power for the protection of the health, safety and welfare of its constituents and their properties. Nothing in this Agreement shall be construed as precluding Member from exercising such powers in connection with the subject matter hereof.

#### **SECTION 28.**

##### **A. COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT of 1986 (IRCA) and with A.R.S. § 23-211 – § 23-214.**

RPTA understands and acknowledges the applicability of IRCA and of § 23-211 through § 23-214, Arizona Revised Statutes (A.R.S.), to it. RPTA shall comply with IRCA and with A.R.S. § 23-211 through § 23-214 in performing under this Agreement. To ensure that RPTA and its subcontractors complying with the provisions of this Section, Member shall have the right to inspect the personnel and related records and papers of RPTA and of its subcontractors pertaining to individuals performing work under this Agreement.

Further, Member is prohibited by A.R.S. § 41-4401 from awarding an Agreement to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). For this

reason, RPTA shall ensure that both it and each of its subcontractors are in compliance with the requirements of A.R.S. § 23-214(A). In addition, both RPTA and each of RPTA's subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A).

A breach of any of the provisions of this Section shall be deemed a material breach of this Agreement and is subject to penalties up to and including termination of the Agreement.

**B. SUDAN AND IRAN.** Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, RPTA certifies that it does not have a scrutinized business operation, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran.

## **SECTION 29. COMPLIANCE WITH THE E-VERIFY PROGRAM**

29.1 Warrant of Compliance - Under the provisions of A.R.S. §41-4401, both Parties warrant to the other that each Party will comply with all Federal Immigration laws and regulations that relate to their employees and that each now complies with the E-Verify Program under A.R.S. §23-214(A).

29.2 Breach of Warranty - A breach of this warranty will be considered a material breach of this Agreement and may subject the breaching party to penalties up to and including termination of this Agreement.

29.3 Right to Inspect - Both Parties retain the legal right to inspect the papers of any employee who works on this Contract or subcontract to ensure compliance with the warranty given above.

29.4 Random Verification - Either Party may conduct a random verification of the employment records of the other to ensure compliance with this warranty.

29.5 Federal Employment Verification Provisions – No Material Breach. A Party will not be considered in material breach of this Agreement if it establishes that it has complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal

Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

29.6 Inclusion of Article in Other Contracts - The provisions of this Article must be included in any contract either Party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.

### **SECTION 30. CIVIL RIGHTS**

The parties agree that as a condition of this Agreement they will each comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal government determines otherwise in writing. These include, but are not limited to, those provisions of Section 12 of that certain United States of America Department of Transportation Federal Transit Administration Master Agreement, dated October 1, 2009, as may be amended from time to time, which provisions are hereby incorporated by reference.

### **SECTION 31. INCORPORATION OF EXHIBITS**

For each year during the term of this Agreement and in coordination with RPTA's adopted fiscal year budget process, Schedules hereto shall be revised and incorporated into this Agreement and made a part hereof as though fully set forth herein.

Schedule "A"	Regionally Funded Fixed Route Bus Service (RPTA Funded)
Schedule "B"	Member Funded Fixed Route Bus Services
Schedule "C"	Intentionally left blank
Schedule "D"	Intentionally left blank
Schedule "E"	Americans with Disabilities Act (ADA) Public Transportation Fund (PTF)
Schedule "F"	ADA Platinum Pass
Schedule "G"	Intentionally left blank
Schedule "H"	Capital Projects Fund

IN WITNESS WHEREOF, the Parties have each executed this Agreement as of the date first set forth above.

**REGIONAL PUBLIC TRANSPORTATION AUTHORITY (RPTA)**

Stephen R. Banta, Chief Executive Officer

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

APPROVED AS TO FORM:

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

Michael J. Ladino

General Counsel

**City of Avondale**

Marie Lopez Rogers, Mayor

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

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

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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

Andrew J. McGuire, City Attorney

**SCHEDULE "A" REGIONALLY FUNDED FIXED ROUTE BUS SERVICE**

Sources of Project Operating Budget

I. Regionally Funded Fixed Route Bus Service **\$407,228.00** (including express)

The above line represents the value of transit service paid for by the RPTA to the benefit of the City of Avondale  
 The calculation to derive this figure is daily revenue miles of service x number of service days x cost per revenue mile of service.

<b>RPTA Funded Service in the City of Avondale</b>										
<b>Fixed Route Estimate</b>										
<b>FY 2014</b>										
<b>Route</b>	<b>Garage</b>	<b>City</b>	<b>Funding</b>	<b>Service</b>	<b>Level</b>	<b>Days</b>	<b>Total Miles</b>	<b>Gross Cost</b>	<b>FY 14 Fares</b>	<b>Net Cost</b>
3 A	First	Avondale	RPTA	Local	W	250	37,450	223,230	(44,060)	179,170
17 A	First	Avondale	RPTA	Local	W	250	29,825	177,780	(21,984)	155,796
3 A	First	Avondale	RPTA	Local	S	52	7,790	46,432	(5,820)	40,612
17 A	First	Avondale	RPTA	Local	S	52	5,788	34,498	(2,848)	31,650
<b>Subtotals</b>							<b>80,852</b>	<b>481,940</b>	<b>(74,712)</b>	<b>407,228</b>

**SCHEDULE “A” – CONTINUED, (if needed) REGIONALLY FUNDED FIXED ROUTE**  
**BUS SERVICE SPECIFICATIONS**

Fixed Route Service Specifications: A detailed description of CITY and Regionally Funded Transit Services covered by the agreement, including:

- a street by street description of routes;
- times of operations;
- route name and number;
- frequency;
- days of operation;
- first and last trip times;
- connections with other routes;
- timing points;
- boarding and alighting policies;
- estimates of revenue hours and miles weekly; and  
hours.

The following route is funded in whole or in part by the City of Avondale and/or RPTA pursuant to this Agreement.

**Route**

ZOOM - Avondale Circulator

**SCHEDULE “B” – CITY FUNDED FIXED ROUTE BUS SERVICE COST ESTIMATE**

For the period July 1, 2013 to June 30, 2014 the City of Avondale will pay the Regional Public Transportation Authority **\$929,897.00** for bus service on the Avondale Circulator in Avondale.

Payments made by the CITY to RPTA for operation of Bus Routes depicted in Schedule B shall consist of twelve (12) monthly installments of **\$77,491.42** commencing July 1, 2013 and shall become due within thirty (30) days of receiving an invoice from the RPTA.

<b>City of Avondale Funded Service</b>											
<b>Fixed Route Estimate</b>											
<b>FY 2014</b>											
<b>Route</b>	<b>Garage</b>	<b>City</b>	<b>Funding</b>	<b>Service</b>	<b>Level</b>	<b>Days</b>	<b>Total Miles</b>	<b>Gross Cost</b>	<b>FY 14 Fares</b>	<b>Net Cost</b>	
ZOOM	VII	Avon	Avon	Circulator	W	250	183,675	719,565	(48,819)	670,746	
ZOOM	VII	Good	Avon	Circulator	W	250	30,510	119,526	-	119,526	
ZOOM	VII	Avon	Avon	Circulator	S	52	30,564	119,736	-	119,736	
ZOOM	VII	Good	Avon	Circulator	S	52	5,077	19,889	-	19,889	
							<b>Subtotals</b>	<b>249,825</b>	<b>978,716</b>	<b>(48,819)</b>	<b>929,897</b>

**SCHEDULE “C” – INTENTIONALLY LEFT BLANK**  
**SCHEDULE “D” – INTENTIONALLY LEFT BLANK**

**SCHEDULE “E” – AMERICANS WITH DISABILITIES ACT (ACT) – PUBLIC  
TRANSPORTATION FUNDS (PTF) AVAILABILITY**

For the period July 1, 2013 to June 30, 2014 the maximum amount of Public Transportation Funds (PTF) available for the City of Avondale is **\$173,930.00**. The PTF will pay actual costs for ADA trips and other requests for Paratransit service made by ADA certified Riders up to the maximum amount. A final reconciliation at fiscal year-end will be performed and adjustments, if necessary, will be made using actual ADA eligible costs.

Total reimbursements to the City will not exceed the net amount that factors in estimated and actual costs associated with operating RPTA’s In-Person Eligibility Determination Facility and ADA Certification office.

Any remaining ADA PTF funds not used up to the maximum reimbursements may be requested by City for other ADA certified rider eligible expenses, and certified by the City’s chief financial officer or designee. RPTA will reimburse City within thirty (30) business days based upon availability of funds. City may request that reimbursements be made electronically. Wire transfers must be pre-arranged through the RPTA Finance Department.

Maximum amount:   **\$173,930.00**

## **SCHEDULE “F” – ADA PLATINUM PASS PROGRAM**

ADA certified passengers participating in the Member ADA Platinum Pass Program may apply for a Platinum Pass that will allow them to ride fixed route service at no cost to them. It is estimated that Member’s ADA PTF annual allocation for the ADA Platinum Pass Program shall incur a cost of **\$425.00** in FY 2013-14. In all cases Member shall be responsible for the actual costs incurred by RPTA for administering this program including actual transportation costs by its residents. In the event that Member does not use its estimated funding provided through the RPTA Board approved ADA-PTF allocation, RPTA may direct such remaining funding to other ADA programs approved by RPTA, including but not limited to, funding of dial-a-ride and other alternative transportation programs for ADA certified users within Member jurisdiction.

Member does hereby agree to participate in the Valley Metro ADA Platinum Pass Program specified in this Schedule F. The ADA Platinum Pass program allows free use of fixed route bus and light rail by ADA certified member residents. The Member will be responsible for the cost of reduced fare on local service and full express fare on express service. Participation in the ADA Platinum Pass Program is voluntary by Member and may be cancelled by Member by providing a ninety (90) calendar day written notice to RPTA. Participation in the ADA Platinum Pass Program reduces ADA operational costs by encouraging ADA certified passengers to use fixed route service in-lieu of more traditional ADA paratransit services. Each eligible ADA certified passenger that opts to participate will receive a reduced fare ADA Platinum Pass to be used at rail fare vending machines and at bus fare boxes for the payment of fare, as defined by the Valley Metro RPTA Board approved fare policy in effect. Current fare information can be found here: [http://www.valleymetro.org/paying\\_your\\_fare/fare\\_options/](http://www.valleymetro.org/paying_your_fare/fare_options/). RPTA shall administer this program on behalf of Member and will deduct funding from Member’s annual ADA allocation of Public Transportation Funds (PTF) that may be appropriated annually to Member by the RPTA Board of Directors. RPTA shall provide report within 15 calendar days from the receipt of detailed billing report from the City of Phoenix on usage and costs incurred. Member ADA-PTF account shall be debited for all pass uses by residents of CITY on an annual basis up to the monthly capped amount of the individual reduced fare Platinum Pass and/or express fare Platinum Pass when applicable.

**SCHEDULE “G” – INTENTIONALLY LEFT BLANK**

**SCHEDULE “H” – CAPITAL PROJECTS FUND**

A. Member Obligations. Member shall:

- (1) In FY 2013-14 be responsible for reimbursing RPTA the non-federal (local) share of bus purchases RPTA shall make on behalf of Member. Member shall pay RPTA within thirty (30) days of receipt of invoice for the local share of any bus purchases made on behalf of Member.

B. RPTA’s Obligations. RPTA shall:

- (1) Acquire buses in consultation with Member for transit services in Member city. In FY 2013-14, RPTA shall acquire eight (8) buses for ZOOM service on behalf of Member. Buses acquired by RPTA shall be titled to RPTA but shall be reserved for service in Member city during the life of the bus(es).
- (2) Comply with all applicable laws, ordinances, regulations and codes of federal, state and local governments in the acquisition of buses in order to maintain eligibility for federal funding of the buses.

**Fixed Route  
Bus Acquisition**

**FY2013-14**

<b>QUANTITY</b>	<b>ESTIMATED COST</b>	<b>FEDERAL SHARE</b>	<b>MEMBER LOCAL SHARE</b>
<b>8</b>	<b>\$1,274,342.48</b>	<b>\$1,057,704.26</b>	<b>\$216,638.22</b>

## ATTACHMENT "A" – PTF EXPENSE REIMBURSEMENT REQUEST

### Regional Public Transportation Authority

### PTF Expenditure Reimbursement Request

The information provided will be used by the Regional Public Transportation Authority (RPTA) to monitor designated lead agency cash flow to ensure compliance with ARS 48-5103. No further monies may be paid out under this program unless this report is completed and filed as required.

RECIPIENT ORGANIZATION NAME AND ADDRESS	PROJECT AGREEMENT NUMBER	REQUEST NO.
	REPORTING PERIOD (Dates)	
	FROM:	TO:

	TOTAL	PTF SHARE
TOTAL ELIGIBLE COSTS	\$ -	\$ -
TOTAL PREVIOUS PAYMENTS	\$ -	\$ -
CURRENT PAYMENT REQUESTED	\$ -	\$ -
REMAINING FUNDING	\$ -	\$ -

**REQUIRED SIGNATURE**

**This document must be signed by the recipient's Chief Financial Officer or their designated representative.**

**CERTIFICATION**

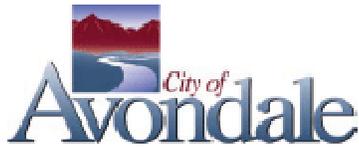
I certify the financial expenditures submitted for reimbursement with this report, including supporting documentation, are eligible and allowable expenditures consistent with the project goals and requirements, have not been previously requested, and that payment is due. I also certify that all matching requirements have been met and sufficient documentation exists in our files and are available upon request or in the event of an audit.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
TYPED OR PRINTED NAME AND TITLE	TELEPHONE

***Instructions***

1. Keep a copy of everything submitted.
2. All project records, including financial records, must be maintained for 3 years beyond project completion.

	<i>For RPTA use only</i>
Date request received:	Life cycle compliance review (signature/date)
Approved for funds availability	10 Date of funds transfer



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3106-513 - Adopting Policies and Procedures for Tax Advantaged Bonds

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Kevin Artz, Finance & Budget Director (623) 333-2011

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a Resolution establishing written Policies and Procedures for Tax-Advantaged Bonds.

**BACKGROUND:**

Internal Revenue Service form 8038G (see Attachment A) must be filed with the IRS by any political subdivision at the time it incurs tax exempt debt. It is this tax-exemption that allows political subdivisions to borrow at lower interest rates.

In September 2011, the IRS promulgated a new version of the Form, adding, among other things, Lines 43 and 44 which permit an issuer to check a box if it established written procedures to "ensure that all unqualified bonds of the issue are remediated according to the requirements of the Code" and "monitor the requirements of section 148 [of the Code]", respectively. While there is no requirement that procedures be established for such purposes, it is generally believed that the IRS would not look favorably on the fact that the boxes were not checked in the case of an audit or other review of the debt which is the subject of the Form. The IRS has not provided any formal guidance on what form the procedure should take for the boxes to be checked.

**DISCUSSION:**

As this is the City's first bond issue since the new form 8038G was issued, staff has worked with the City's Bond Counsel (Greenberg and Traurig) to draft the attached "Policies and Procedures for Tax-Advantaged Bonds".

The Policies and Procedures identify the Finance and Budget Director as having the overall responsibility for ensuring the requirements are met with respect to the tax advantaged bonds. Some of the main responsibilities include:

- \* Ensure the issue price and Premium limits are appropriate for direct pay bonds
- \* Timely filing of IRS information return
- \* Determining the use and consistent accounting of the Bond proceeds
- \* Monitoring private business use on bond financed facilities
- \* Monitoring use of facilities financed with Private activity bonds
- \* Monitoring loans of Bond proceeds
- \* Arbitrage and Rebate compliance
- \* Record retention of bond documents

These written policies and procedures document the process staff was administering when issuing bonds in the past. With approval of this Resolution, staff will be able to certify on form 8038G, that

the City has written Policies and Procedures for Tax-Advantaged Bonds

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution establishing written Policies and Procedures for Tax-Advantaged Bonds.

**ATTACHMENTS:**

Click to download

[Resolution 3106-513](#)

[Attachment A - Form 8038G](#)

**RESOLUTION NO. 3106-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ADOPTING WRITTEN POLICIES AND PROCEDURES FOR TAX-ADVANTAGED BONDS.

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

SECTION 1. Written Policies and Procedures for Tax-Advantaged Bonds are hereby adopted in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this Resolution or any part of the Written Policies and Procedures for Tax-Advantaged Bonds adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3106-513

(Written Policies and Procedures for Tax-Advantaged Bonds)

See following pages.

## **WRITTEN POLICIES AND PROCEDURES FOR TAX-ADVANTAGED BONDS**

The City of Avondale, Arizona (the “Issuer”) has issued and may in the future issue tax-exempt obligations (including, without limitation, bonds, notes, loans, leases and certificates), tax credit obligations and “direct-pay” tax credit obligations (together, “tax-advantaged bonds”) that are subject to certain requirements under the Internal Revenue Code of 1986, as amended (the “Code”).

The Issuer has established the policies and procedures contained herein (the “Procedures”) as of May 6, 2013, in order to ensure that the Issuer complies with the requirements of the Code that are applicable to its tax-advantaged bonds. These Procedures, coupled with requirements contained in the Arbitrage and Tax Certificate (the “Tax Certificate”) or other operative documents executed at the time of issuance of the tax-advantaged bonds, are intended to constitute written procedures for ongoing compliance with the Federal tax requirements applicable to the bonds and for timely identification and remediation of violations of such requirements.

The tax-advantaged bonds that are covered by these Procedures include, but are not limited to, “Build America Bonds,” “Recovery Zone Economic Development Bonds” and “Specified Tax Credit Bonds” that constitute “qualified bonds” under Section 6431 of the Code and are therefore eligible for interest subsidy payments (the “Subsidy”) from the U.S. Treasury (such Build America Bonds, Recovery Zone Economic Development Bonds and Specified Tax Credit Bonds are collectively referred to as “Direct-Pay Bonds”). Specified Tax Credit Bonds include new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds and qualified school construction bonds.

### **A. GENERAL MATTERS.**

1. Responsible Officer. The Issuer’s Finance and Budget Director (the “Responsible Officer”) will have overall responsibility for ensuring that the ongoing requirements described in these Procedures are met with respect to tax-advantaged bonds.
2. Establishment of Procedures. The Procedures established herein will be adopted by Resolution by the City Council.
3. Identify Additional Responsible Employees. The Responsible Officer shall identify any additional persons who will be responsible for each section of the Procedures, notify the current holder of that office of the responsibilities, and provide that person a copy of the Procedures. (For each section of the Procedures, this may be the Responsible Officer or another person who is assigned the particular responsibility.)
  - a. Upon employee or officer transitions, new personnel should be advised of responsibilities under the Procedures and the Responsible Officer or other

responsible person assigned to the task of advising such employees should ensure they understand the importance of the Procedures.

- b. If employee or officer positions are restructured or eliminated, responsibilities should be reassigned as necessary to ensure that all Procedures have been appropriately assigned.
4. Training Required. The Responsible Officer and other responsible persons shall receive appropriate training that includes the review of and familiarity with the contents of these Procedures, review of the requirements contained in the Code applicable to each tax-advantaged bond, identification of all tax-advantaged bonds that must be monitored, identification of all facilities (or portions thereof) financed with proceeds of tax-advantaged bonds, familiarity with the requirements contained in the Tax Certificate or other operative documents contained in the transcript, and familiarity with the procedures that must be taken in order to correct noncompliance with the requirements of the Code in a timely manner.
5. Periodic Review. The Responsible Officer or other responsible person shall periodically review compliance with the Procedures and with the terms of the Tax Certificate to determine whether any violations have occurred so that such violations can be timely remedied through the “remedial action” regulations (Treasury Regulation §1.141-12, §1.142-2, §1.144-2, §1.145-2 or §1.147-2, as applicable) or the Voluntary Closing Agreement Program described in Internal Revenue Service (“IRS”) Notice 2008-31 (or successor guidance) and related sections of the Internal Revenue Manual. Such periodic review shall occur not less than annually.
6. Change in Bond Terms. If any changes to the terms of the bonds are contemplated, bond counsel should be consulted. Such modifications could result in a reissuance, i.e., a deemed refunding, of the bonds which could jeopardize the status of tax-advantaged bonds, including Direct-Pay Bonds (and thereby affect the continued receipt of the Subsidy for Direct-Pay Bonds).

**B. ISSUE PRICE FOR TAX-ADVANTAGED BONDS; PREMIUM LIMIT FOR DIRECT-PAY BONDS.**

1. Issue Price. In order to document the issue price of tax-advantaged bonds, the Responsible Officer shall consult with bond counsel and obtain a written certification from the underwriter, placement agent or other purchaser of the bonds as to the offering price of the bonds that is in form and substance acceptable to the Issuer and bond counsel.
2. Premium Limit for Direct Pay-Bonds. Prior to issuing Direct-Pay Bonds, the Responsible Officer shall consult with bond counsel and the Issuer’s financial advisors to ensure that the premium on each maturity of the Direct-Pay Bonds (stated as a percentage of principal amount) does not exceed one-quarter of one-

percent (0.25%) multiplied by the number of complete years to the earlier of the final maturity of the bonds or, generally, the earliest call date of the bonds, and that the excess of the issue price of the bonds over the price at which the bonds are sold to the underwriter or placement agent, when combined with other issuance costs paid from proceeds of the bonds, does not exceed 2% of the sale proceeds of the bonds.

**C. IRS INFORMATION RETURN FILING.**

1. Filing of Applicable Form 8038. The Responsible Officer will confirm that bond counsel has filed the applicable information reports (such as Forms 8038, 8038-G, 8038-B or 8038-TC) for such bond issue with the IRS on a timely basis, and will maintain copies of such form including evidence of timely filing as part of the transcript of the bond issue.
2. Filing of Form 8038-CP. For Direct-Pay Bonds, the Responsible Officer shall review the IRS Form 8038-CP in order to ensure that the proper amount of interest is being reported and the proper amount of Subsidy is being requested with respect to each interest payment date. The Responsible Officer shall ensure that the IRS Form 8038-CP is filed on a timely basis with respect to each interest payment date in order to receive timely payment of the Subsidy. If the Subsidy is to be paid to a person other than the Issuer (i.e., the bond trustee), the Responsible Officer shall obtain and record the contact information of that person, and shall ensure that it is properly shown on Form 8038-CP so that the direct payment will be made to the proper person.
3. Filing of Forms 8038-T or 8038-R. The Responsible Officer shall file the IRS Form 8038-T relating to the payment of rebate or yield reduction payments in a timely manner as discussed in Section I.12. below. The Responsible Officer shall also monitor the extent to which the Issuer is eligible to receive a refund of prior rebate payments and provide for the timely filing for such refunds using an IRS Form 8038-R.

**D. USE OF PROCEEDS.** The Responsible Officer or other responsible person shall:

1. Consistent Accounting Procedures. Maintain clear and consistent accounting procedures for tracking the investment and expenditures of bond proceeds, including investment earnings on bond proceeds.
2. Reimbursement Allocations at Closing. At or shortly after closing of a bond issue, ensure that any allocations for reimbursement expenditures comply with the Tax Certificate.
3. Timely Expenditure of Bond Proceeds. Monitor that sale proceeds and investment earnings on sale proceeds of tax-advantaged bonds are spent in a timely fashion consistent with the requirements of the Tax Certificate.

4. Costs of Issuance. With respect to Direct-Pay Bonds and qualified private activity bonds, monitor that no more than 2% of the sale proceeds are used to pay costs of issuance.
5. Qualified Use of Proceeds of Direct-Pay Build America Bonds. With respect to Build America Bonds, determine the correct amount of available project proceeds and monitor that 100% of all sale proceeds and investment earnings on sale proceeds (other than proceeds used to pay costs of issuance or deposited in a reasonably required reserve fund) are allocated to capital expenditures in a timely fashion consistent with the requirements of the Tax Certificate.
6. Qualified Use of Proceeds of Recovery Zone Economic Development Bonds. With respect to Recovery Zone Economic Development Bonds, determine the correct amount of available project proceeds and monitor that 100% of all sale proceeds and investment earnings on sale proceeds (other than proceeds used to pay costs of issuance or deposited in a reasonably required reserve fund) are allocated to expenditures for qualified economic development purposes within the recovery zone in a timely fashion consistent with the requirements of the Tax Certificate. Ensure compliance with the “Davis Bacon” requirements described in Section H.1. below.
7. Qualified Use of Proceeds of Specified Tax Credit Bonds. With respect to Specified Tax Credit Bonds, determine the correct amount of available project proceeds and monitor that 100% of all sale proceeds and investment earnings on sale proceeds (other than proceeds used to pay costs of issuance) are allocated to qualifying expenditures that are permitted for each type of Specified Tax Credit Bond in a timely fashion consistent with the requirements of the Tax Certificate. If proceeds are not spent by the end of the “expenditure period” as defined in Section H.2. below, redeem bonds in accordance with the requirements of the Code as further described in Section H.2. below.
8. Qualified Use of Proceeds of Qualified Private Activity Bonds. With respect to qualified bonds, including exempt facility bonds, monitor that sale proceeds and investment earnings on sale proceeds are allocated to qualifying expenditures permitted for each type of qualified bond in a timely fashion consistent with the requirements of the Tax Certificate. If an exempt facility or other applicable facility will not be completed, or the facility has been placed in service, and there are remaining unspent bond proceeds, immediately consult with bond counsel to determine whether bonds are required to be redeemed under Treasury Regulation §1.142-2. If exempt facility bonds are required to be redeemed or defeased in order to comply with the remedial action rules under Treasury Regulation §1.142-2, such redemption or defeasance must occur within 90 days of the date an action is taken that causes the bonds to not be used for the qualifying purpose for which the bonds were issued.

9. Requisitions. Utilize requisitions to draw down bond proceeds, and ensure that each requisition contains (or has attached to it) detailed information in order to establish when and how bond proceeds were spent; review requisitions carefully before submission to ensure proper use of bond proceeds to minimize the need for reallocations.
10. Final Allocation. Ensure that a final allocation of bond proceeds (including investment earnings) to qualifying expenditures is made if bond proceeds are to be allocated to project expenditures on a basis other than “direct tracing” (direct tracing means treating the bond proceeds as spent as shown in the accounting records for bond draws and project expenditures). An allocation other than on the basis of “direct tracing” is often made to reduce the private business use of bond proceeds that would otherwise result from “direct tracing” of proceeds to project expenditures. *This allocation must be made within 18 months after the later of the date the expenditure was made or the date the project was placed in service, but not later than five years and 60 days after the date the bonds are issued (or 60 days after the bond issue is retired, if earlier).* Bond counsel can assist with the final allocation of bond proceeds to project costs. Maintain a copy of the final allocation in the records for the tax-advantaged bond.
11. Maintenance and Retention of Records Relating to Proceeds. Maintain careful records of all project and other costs (e.g., costs of issuance, credit enhancement and capitalized interest) and uses (e.g., deposits to a reserve fund) for which bond proceeds were spent or used. These records should be maintained separately for each issue of bonds for the period indicated under Section J. below.

**E. MONITORING PRIVATE BUSINESS USE.** With respect to tax-advantaged bonds that are subject to the private activity bond limitations provided in the Code (e.g., governmental bonds and qualified 501(c)(3) bonds), the Responsible Officer or other responsible person shall:

1. Identify Bond-Financed Facilities. Identify or “map” which outstanding bond issues financed which facilities and in what amounts.
2. Review of Contracts with Private Persons. Review all of the following contracts or arrangements with non-governmental persons or organizations or the federal government (collectively referred to as “private persons”) with respect to the bond-financed facilities which could result in private business use of the facilities:
  - a. Sales of bond-financed facilities;
  - b. Leases of bond-financed facilities;
  - c. Management or service contracts relating to bond-financed facilities;

- d. Research contracts under which a private person sponsors research in bond-financed facilities; and
  - e. Any other contracts involving “special legal entitlements” (such as naming rights or exclusive provider arrangements) granted to a private person with respect to bond-financed facilities.
3. Bond Counsel Review of New Contracts or Amendments. Before amending an existing agreement with a private person or entering into any new lease, management, service, or research agreement with a private person relating to a bond-financed facility, consult bond counsel to review such amendment or agreement to determine whether it results in private business use.
  4. Establish Procedures to Ensure Proper Use and Ownership. Establish procedures to ensure that bond-financed facilities are not used for private use without written approval of the Responsible Officer or other responsible person. For qualified 501(c)(3) bonds, establish procedures to ensure that the bond-financed facilities continue to be owned by a qualified 501(c)(3) organization or a governmental unit.
  5. Analyze Use. Analyze any private business use of bond-financed facilities and, for each issue of bonds, determine whether the 10% limit on private business use (5% in the case of qualified 501(c)(3) bonds or “unrelated or disproportionate” private business use) is exceeded, and contact bond counsel or other tax advisors if either of these limits appears to be exceeded.
  6. Remediation if Limits Exceeded. If it appears that private business use limits are exceeded, immediately consult with bond counsel to determine if a remedial action is required with respect to nonqualified bonds of the issue under Treasury Regulation §1.141-12, or if the IRS should be contacted under its Voluntary Closing Agreement Program. If tax-advantaged bonds are required to be redeemed or defeased in order to comply with the remedial action rules under Treasury Regulation §1.141-12, such redemption or defeasance must occur within 90 days of the date a deliberate action is taken that results in a violation of the private business use limits.
  7. Maintenance and Retention of Records Relating to Private Use. Retain copies of all of the above contracts or arrangements (or, if no written contract exists, detailed records of the contracts or arrangements) with private persons for the period indicated under Section J. below.

**F. MONITORING USE OF FACILITIES FINANCED WITH QUALIFIED PRIVATE ACTIVITY BONDS.** With respect to tax-advantaged bonds that are not subject to the private activity bond limitations, but are subject to the limitations provided in the Code as to the qualifying use of proceeds and qualifying use of bond-financed

facilities (e.g., exempt facility bonds, qualified small issue bonds and qualified redevelopment bonds), the Responsible Officer or other responsible person shall:

1. Identify Bond-Financed Facilities. Identify or “map” facilities that have been bond-financed and ensure that use is for an appropriate purpose (e.g., airport facilities are being used for airport purposes).
2. Review of Contracts with Private Persons. If the bond-financed facilities are required to be governmentally owned, examine all leases, management contracts or other contracts with private persons to ensure compliance with applicable safe-harbors for governmental ownership provided in the Code. Before amending an existing agreement or entering into any new lease, management or other contract, consult bond counsel to review such amendment or agreement to determine whether it complies with applicable safe harbors.
3. Establish Procedures to Monitor Use. Establish procedures to monitor that bond-financed facilities are not used for nonqualifying purposes. Require users of facilities to immediately notify the Responsible Officer or other responsible person if a change in use of the facilities is contemplated or occurs.
4. Remediation if Limitations Exceeded. If qualified use of facilities financed with tax-advantaged bonds changes to a non-qualified use (e.g., use of airport facilities that is not for airport purposes), immediately consult with bond counsel to determine if a remedial action is required with respect to nonqualified bonds of the issue under Treasury Regulation §1.142-2, or if the IRS should be contacted under its Voluntary Closing Agreement Program. If tax-advantaged bonds are required to be redeemed or defeased in order to comply with the remedial action rules under Treasury Regulation §1.142-2, such redemption or defeasance must occur within 90 days of the date an action is taken that causes the bonds to not be used for the qualifying purpose for which the bonds were issued.
5. Maintenance and Retention of Records Relating to Qualifying Use. Retain copies of all of the above contracts or arrangements (or, if no written contract exists, detailed records of the contracts or arrangements) with private persons for the period indicated under Section J. below.

**G. LOAN OF BOND PROCEEDS.** Consult bond counsel if a loan of proceeds of tax-advantaged bonds is contemplated. If proceeds of tax-advantaged bonds are permitted under the Code to be loaned to other entities and are in fact so loaned, require that the entities receiving a loan of bond proceeds institute policies and procedures similar to the Procedures to ensure that the proceeds of the loan and the facilities financed with proceeds of the loan comply with the limitations provided in the Code. Require the recipients of such loans to annually report to the Issuer ongoing compliance with the Procedures and the requirements of the Code.

**H. SPECIAL REQUIREMENTS APPLICABLE TO SPECIFIED TAX CREDIT BONDS.** The Code imposes certain additional special requirements that apply to the issuance of Specified Tax Credit Bonds. For Specified Tax Credit Bonds, ensure that the following are met:

1. Davis-Bacon. Pursuant to the terms of Section 1701 of the American Recovery and Reinvestment Tax Act of 2009, projects financed with Specified Tax Credit Bonds are subject to the prevailing wage requirements of Subchapter IV of Chapter 31 of Title 40, United States Code. Note that these requirements also apply to the issuance of Recovery Zone Economic Development Bonds.
2. Spending Requirements. Although these may seem similar to “temporary period requirements,” the “spending requirements” applicable to Specified Tax Credit Bonds are hard and fast rules that if not met may cause payments of the Subsidy on some or all of the Specified Tax Credit Bonds to be lost or revoked and will require redemption of such bonds. The spending requirements are as follows:
  - a. 100% of the sale proceeds and investment proceeds must be spent within the three-year period beginning on the date of issuance (unless such period is extended as described below) (the “expenditure period”);
  - b. a binding commitment with a third party to spend at least 10% of the sale proceeds and investment proceeds (other than the amount spent on costs of issuance) (“available project proceeds”) will be incurred within the six-month period beginning on the date of issuance;
  - c. to the extent less than 100% of available project proceeds are not spent by the end of the expenditure period for qualified purposes, the Issuer must redeem all of the “nonqualified bonds”) within 90 days after the end of the expenditure period (this should be done with the assistance of bond counsel);
  - d. the expenditure period may be extended beyond the initial three-year period only by the U.S. Treasury upon the request of the Issuer, which request must establish that the failure to spend the available project proceeds within three years was due to a reasonable cause and that spending will continue with due diligence.
3. Sinking Funds. Special rules permit Specified Tax Credit Bonds to be structured with sinking funds that will not be subject to rebate. These sinking funds must be structured as follows:
  - a. the sinking fund may not be funded more rapidly than in equal monthly installments;
  - b. the sinking fund may only be funded in a manner reasonably expected to result in an amount not greater than the amount necessary to repay the bond issue; and

- c. the yield on the investments in the sinking fund may not exceed the published permitted sinking fund yield for the sale date (which is set forth in the Tax Certificate).
4. Prohibition on Financial Conflicts of Interest. Upon the issuance of Specified Tax Credit Bonds, the Issuer certified that applicable State and local laws governing conflicts of interest were followed with respect to the bonds. If the U.S. Treasury prescribes additional conflicts of interest rules with respect to the Specified Tax Credit Bonds, such rules must also be satisfied.
5. Additional Rules Applicable to Specified Tax Credit Bonds. New clean renewable energy bonds, energy conservation bonds, qualified school construction bonds and qualified zone academy bonds each have their own set of specific and unique requirements that are applicable to the use of proceeds or eligibility as a Specified Tax Credit Bond. The Responsible Officer should consult the Tax Certificate and establish procedures for monitoring compliance with such specific requirements that are applicable to the Specified Tax Credit Bonds of the Issuer.

**I. ARBITRAGE AND REBATE COMPLIANCE.** The Responsible Officer or other responsible person shall:

1. Review Tax Certificate. Review each Tax Certificate to understand the specific requirements that are applicable to each tax-advantaged bond issue.
2. Arbitrage Yield. Record the arbitrage yield of the bond issue, as shown on IRS Form 8038-G, 8038-B, 8038-TC or other applicable form. If the bonds are variable rate bonds, yield must be determined on an ongoing basis over the life of the bonds as described in the Tax Certificate.
3. Temporary Periods. Review the Tax Certificate to determine the “temporary periods” for each bond issue, which are the periods during which proceeds of bonds may be invested without yield restriction.
4. Post-Temporary Period Investments. Ensure that any investment of bond proceeds after applicable temporary periods is at a yield that does not exceed the applicable bond yield, unless yield reduction payments can be made pursuant to the Tax Certificate.
5. Monitor Temporary Period Compliance. Monitor that bond proceeds (including investment earnings) are expended promptly after the bonds are issued in accordance with the expectations for satisfaction of three-year or five-year temporary periods for investment of bond proceeds and to avoid “hedge bond” status.

6. Monitor Yield Restriction Limitations. Identify situations in which compliance with applicable yield restrictions depends upon later investments (e.g., the purchase of 0% State and Local Government Securities from the U.S. Treasury for an advance refunding escrow). Monitor and verify that these purchases are made as contemplated.
7. Establish Fair Market Value of Investments. Ensure that investments acquired with bond proceeds satisfy IRS regulatory safe harbors for establishing fair market value (e.g., through the use of bidding procedures), and maintaining records to demonstrate satisfaction of such safe harbors. Consult the Tax Certificate for a description of applicable rules.
8. Credit Enhancement, Hedging and Sinking Funds. Consult with bond counsel before engaging in credit enhancement or hedging transactions relating to a bond issue, and before creating separate funds that are reasonably expected to be used to pay debt service on bonds. Maintain copies of all contracts and certificates relating to credit enhancement and hedging transactions that are entered into relating to a bond issue.
9. Grants/Donations to Governmental Entities. Before beginning a capital campaign or grant application that may result in gifts that are restricted to bond-financed projects (or, in the absence of such a campaign, upon the receipt of such restricted gifts), consult bond counsel to determine whether replacement proceeds may result that are required to be yield restricted.
10. Bona Fide Debt Service Fund. Even after all proceeds of a given bond issue have been spent, ensure that the debt service fund meets the requirements of a “bona fide debt service fund,” i.e., one used primarily to achieve a proper matching of revenues with debt service that is depleted at least once each bond year, except for a reasonable carryover amount not to exceed the greater of: (a) the earnings on the fund for the immediately preceding bond year; or (b) one-twelfth of the debt service on the issue for the immediately preceding bond year. To the extent that a debt service fund qualifies as a bona fide debt service fund for a given bond year, the investment of amounts held in that fund is not subject to yield restriction for that year.
11. Debt Service Reserve Funds. Ensure that amounts invested in any reasonably required debt service reserve fund do not exceed the least of: (a) 10% of the stated principal amount of the bonds (or the sale proceeds of the bond issue if the bond issue has original issue discount or original issue premium that exceeds 2% of the stated principal amount of the bond issue plus, in the case of premium, reasonable underwriter’s compensation); (b) maximum annual debt service on the bond issue; or (c) 125% of average annual debt service on the bond issue.

12. Rebate and Yield Reduction Payment Compliance. Review the Arbitrage Rebate covenants contained in the Tax Certificate. Subject to certain rebate exceptions described below, investment earnings on bond proceeds at a yield in excess of the bond yield (i.e., positive arbitrage) generally must be rebated to the U.S. Treasury, even if a temporary period exception from yield restriction allowed the earning of positive arbitrage.
  - a. Ensure that rebate and yield reduction payment calculations will be timely performed and payment of such amounts, if any, will be timely made. Such payments are generally due 60 days after the fifth anniversary of the date of issue of the bonds, then in succeeding installments every five years. The final rebate payment for a bond issue is due 60 days after retirement of the last bond of the issue. The Issuer should hire a rebate consultant if necessary.
  - b. Review the rebate section of the Tax Certificate to determine whether the “small issuer” rebate exception applies to the bond issue.
  - c. If the 6-month, 18-month, or 24-month spending exceptions from the rebate requirement (as described in the Tax Certificate) may apply to the bonds, ensure that the spending of proceeds is monitored prior to semi-annual spending dates for the applicable exception.
  - d. Make rebate and yield reduction payments and file Form 8038-T in a timely manner.
  - e. Even after all other proceeds of a given bond issue have been spent, ensure compliance with rebate requirements for any debt service reserve fund and any debt service fund that is not exempt from the rebate requirement (see the Arbitrage Rebate covenants contained in the Tax Certificate).
13. Maintenance and Retention of Arbitrage and Rebate Records. Maintain records of investments and expenditures of proceeds, rebate exception analyses, rebate calculations, Forms 8038-T, and rebate and yield reduction payments, and any other records relevant to compliance with the arbitrage restrictions for the period indicated in Section J. below.

**J. RECORD RETENTION.** The Responsible Officer or other responsible person shall ensure that for each issue of bonds, the transcript and all records and documents described in these Procedures will be maintained while any of the bonds are outstanding and during the three-year period following the final maturity or redemption of that bond issue, or if the bonds are refunded (or re-refunded), while any of the refunding bonds are outstanding and during the three-year period following the final maturity or redemption of the refunding bonds.

# Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)  
 ► See separate instructions.  
 Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name		2 Issuer's employer identification number (EIN)
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code		7 Date of issue
8 Name of issue		9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a

**Part II Type of Issue (enter the issue price).** See the instructions and attach schedule.

11 Education	11	
12 Health and hospital	12	
13 Transportation	13	
14 Public safety	14	
15 Environment (including sewage bonds)	15	
16 Housing	16	
17 Utilities	17	
18 Other. Describe ►	18	
19 If obligations are TANs or RANs, check only box 19a		<input type="checkbox"/>
If obligations are BANs, check only box 19b		<input type="checkbox"/>
20 If obligations are in the form of a lease or installment sale, check box		<input type="checkbox"/>

**Part III Description of Obligations.** Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$	\$	years	%

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22 Proceeds used for accrued interest	22	
23 Issue price of entire issue (enter amount from line 21, column (b))	23	
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	
25 Proceeds used for credit enhancement	25	
26 Proceeds allocated to reasonably required reserve or replacement fund	26	
27 Proceeds used to currently refund prior issues	27	
28 Proceeds used to advance refund prior issues	28	
29 Total (add lines 24 through 28)	29	
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	

**Part V Description of Refunded Bonds.** Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . . ► \_\_\_\_\_ years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . . ► \_\_\_\_\_ years

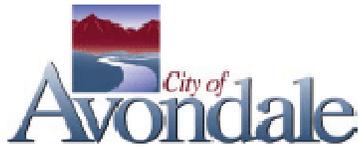
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . . ► \_\_\_\_\_

34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)

**Part VI Miscellaneous**

<b>35</b>	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	<b>35</b>	
<b>36a</b>	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .	<b>36a</b>	
<b>b</b>	Enter the final maturity date of the GIC ▶ _____		
<b>c</b>	Enter the name of the GIC provider ▶ _____		
<b>37</b>	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	<b>37</b>	
<b>38a</b>	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:		
<b>b</b>	Enter the date of the master pool obligation ▶ _____		
<b>c</b>	Enter the EIN of the issuer of the master pool obligation ▶ _____		
<b>d</b>	Enter the name of the issuer of the master pool obligation ▶ _____		
<b>39</b>	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .	<input type="checkbox"/>	
<b>40</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .	<input type="checkbox"/>	
<b>41a</b>	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:		
<b>b</b>	Name of hedge provider ▶ _____		
<b>c</b>	Type of hedge ▶ _____		
<b>d</b>	Term of hedge ▶ _____		
<b>42</b>	If the issuer has superintegrated the hedge, check box . . . . .	<input type="checkbox"/>	
<b>43</b>	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .	<input type="checkbox"/>	
<b>44</b>	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .	<input type="checkbox"/>	
<b>45a</b>	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____		
<b>b</b>	Enter the date the official intent was adopted ▶ _____		

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	▶ _____ Signature of issuer's authorized representative		▶ _____ Date	
			▶ _____ Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Firm's name ▶	Firm's EIN ▶		PTIN
	Firm's address ▶	Phone no.		



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3103-513 - Pledged Revenue  
Refunding Obligations

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Kevin Artz, Finance and Budget Director (623) 333-2011

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a Resolution providing for the sale, execution and delivery of not to exceed \$12.1M of City of Avondale Pledged Revenue Refunding Obligations, Series 2013 and authorizing all actions necessary to proceed with the sale.

**BACKGROUND:**

In July 2002, the City of Avondale issued \$23,000,000 in Avondale Municipal Development Corporation Excise Tax Revenue Bonds, Series 2002 to provide funding for the costs of design, acquisition, and construction of water, wastewater and street projects. The interest rate on the bonds is 4.25%, with a final payment in 2015. The bonds are callable any time after 7/1/12. The balance outstanding is \$4.125M.

In May 2003, the City of Avondale issued \$13,120,000 in Avondale Municipal Development Corporation Excise Tax Revenue Bonds, Series 2003 to provide funding for the costs of design, acquisition, and construction of the Civic Center campus and Friendship Park. The interest rate on the bonds is 3.40%, with a final payment in 2015. The bonds are callable any time after 7/1/12. The balance outstanding is \$2.945M. The 2003 bonds will not be refunded; a cash payment will be made, resulting in the defeasance of the bonds.

In July 2004, the City of Avondale issued \$12,400,000 in Avondale Municipal Development Corporation Excise Tax Revenue Bonds, Series 2004 to provide funding for the costs of design, acquisition, and construction of water system improvements and Fire Station 173. The interest rate on the bonds is 4.30%, with a final payment in 2020. The bonds are callable any time after 7/1/14. The balance outstanding is \$7.160M.

The City's financial advisor, Stone & Youngberg, has determined that the City has the opportunity to refund (refinance) the Series 2002 and 2004 bonds with a substantial savings to the City, as a result of the very favorable interest rates. At the current interest rates plus 25 basis points, the City is projected to save approximately \$436,225 or 3.06% on a net present value basis, thru the refunding and defeasance of the bonds.

The City has established a required minimum present value debt service savings of \$200,000 net of all costs associated with the issuance, of the bonds being refunded. The refunding will not proceed if the minimum savings of \$200,000 is not achieved.

**DISCUSSION:**

The Resolution authorizes the sale and execution and delivery of City of Avondale Pledged Revenue Refunding Obligations, Series 2013 and authorizes all actions necessary to proceed with the sale,

prescribing certain terms and conditions, including the following:

- Delegation to the Mayor, City Manager and Finance and Budget Director of the City, the authority to designate the date the obligations are to be sold to the underwriter
- Delegation to the Mayor, City Manager and Finance and Budget Director of the City, the authority to determine if an insurance policy or surety bond would be advantageous to the City
- Approving the form of the obligation purchase contract Approving a Purchase Agreement, Trust Agreement and Escrow Trust Agreement and approving the form of the contract,
- Approving the continuing disclosure undertaking Approving and authorizing the distribution of the preliminary official statement
- Ratifying all actions taken to further this Resolution
- Declaring an emergency, in order to have the Resolution effective immediately

The refunding shall take place provided that the refunding results in a present value debt service saving, net of all costs of issuance associated with the issuance of the bonds, of not less than \$200,000.

The sale of the bonds will be as a result of a negotiated sale, and Stone and Youngberg (a division of STIFEL) will serve as the City's underwriter for the bonds. Staff has determined that a negotiated sale will be the most effective and efficient method for sale, considering the current conditions in the market. In order to realize the potential savings, the sale of the bonds needs to happen as expeditiously as possible. The Obligation Purchase Contract (Attachment B) will be executed in substantially the form as attached.

The First Purchase Agreement (Attachment C), the First Trust Agreement (Attachment D) and Escrow Trust Agreement (Attachment E) between the City and U.S. Bank establishes the purchase contract, appoints a trustee, and establishes an irrevocable trust for the safekeeping and handling of the securities held for the payment of the bonds being refunded. The Agreements will be executed in substantially the form as attached.

The Continuing Disclosure undertaking (Attachment F) is being executed to provide information for the benefit of the owners of the securities. The agreement requires the City to provide an Annual Report (Comprehensive Annual Financial Report) to the national repositories by February 1st of each year.

The Preliminary Official Statement (Attachment F) provides information necessary to the prospective buyers of the Bonds, including detailed information on the Series 2013 Obligations, the project description, debt service requirements, sources and uses of funds, audited financial statements and legal documents and disclosures.

#### **BUDGETARY IMPACT:**

The source of repayment for the obligations is the .5% dedicated sales tax and impact fees. The debt service payments have been appropriated in fund 430. Projected revenues are adequate to cover the debt service payments.

#### **RECOMMENDATION:**

Staff recommends that Council adopt a Resolution providing for the sale, execution and delivery of City of Avondale Pledged Revenue Refunding Obligations, Series 2013 and authorizing all actions necessary to proceed with the sale.

#### **ATTACHMENTS:**

[Click to download](#)

[Resolution 3103-513](#)

## **RESOLUTION NO. 3103-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST PURCHASE AGREEMENT, A FIRST TRUST AGREEMENT, AN ESCROW TRUST AGREEMENT, A CONTINUING DISCLOSURE UNDERTAKING, AN OBLIGATION PURCHASE CONTRACT AND OTHER NECESSARY AGREEMENTS, INSTRUMENTS AND DOCUMENTS; APPROVING THE SALE AND EXECUTION AND DELIVERY OF NOT TO EXCEED \$12,100,000 AGGREGATE PRINCIPAL AMOUNT OF PLEDGED REVENUE REFUNDING OBLIGATIONS, EVIDENCING A PROPORTIONATE INTEREST OF THE OWNERS THEREOF IN THE PURCHASE AGREEMENT TO REFUND BONDS OF THE CITY OF AVONDALE MUNICIPAL DEVELOPMENT CORPORATION; DELEGATING AUTHORITY TO THE MAYOR, MANAGER AND FINANCE AND BUDGET DIRECTOR OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION AND DECLARING AN EMERGENCY.

**WHEREAS**, the Council of the City of Avondale (the "City Council"), has determined to refinance the lease-purchases established by the First Supplement to City Lease, dated as of July 1, 2002, the Second Supplement to City Lease, dated as of May 1, 2003, and the Third Supplement to City Lease, dated as of July 1, 2004 (collectively, the "City Leases"), from the City of Avondale Municipal Development Corporation (the "Corporation") to the City of Avondale (the "City") of certain property (the "Refinanced Projects") by entering into a First Purchase Agreement, to be dated as of the first day of the month of the dated date of the hereinafter described Obligations established as provided herein (the "Purchase Agreement"), with U.S. Bank National Association, as trustee (the "Trustee"), in its separate capacity as "Seller"; and

**WHEREAS**, the payments due from the City pursuant to the City Leases secure payments due with respect to the Excise Tax Revenue Bonds, Series 2002, Excise Tax Revenue Bonds, Series 2003 and Excise Tax Revenue Bonds, Series 2004, of the Corporation (collectively, the "Bonds"), the payments themselves due pursuant to the City Leases being secured by certain excise taxes authorized by the City Council; and

**WHEREAS**, in connection with the Purchase Agreement, the City Council has deemed it necessary and desirable to provide for the sale and execution and delivery of pledged revenue refunding obligations, as provided by this Resolution (the “Obligations”), representing proportionate interests of the owners of the Obligations in payments to be made by the City to the Trustee, pursuant to the First Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations (the “Trust Agreement”), between the Trustee and the City, such payments to be made pursuant to the Purchase Agreement; and

**WHEREAS**, the payments represented by the Obligations will be secured by amounts received under the Purchase Agreement pursuant to which the City will pledge Excise Tax Revenues and State Shared Revenues (as such terms are defined in the Purchase Agreement) which are the same revenues authorized for purposes of the City Leases; and

**WHEREAS**, there have been presented to the City Council at the meeting at which this Resolution is being adopted: (1) the proposed form of the Purchase Agreement; (2) the proposed form of the Trust Agreement; (3) the proposed form of an Escrow Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations, with the Trustee, in separate capacity as escrow trustee (the “Escrow Trustee”), for the establishment of an escrow to defease the obligations which financed the Refinanced Projects; (4) the proposed form of a Continuing Disclosure Undertaking, to be dated the date of delivery of the Obligations (the “Undertaking”), from the City necessary for purposes of Securities and Exchange Commission Rule 15c2-12; (5) the proposed form of the Obligation Purchase Contract, to be dated the date of the sale of the Obligations (the “Purchase Contract”), by and between the City and Stifel, Nicolaus & Company, Incorporated (the “Underwriter”), for the purchase of the Obligations and (6) the proposed form of the Preliminary Official Statement, to be dated the date of the dissemination thereof (the “Preliminary Official Statement”), relating to the Obligations, which, as to be revised after the sale of the Obligations, shall constitute the Official Statement, to be dated the date of sale of the Obligations (the “Official Statement”), relating to the Obligations; and

**WHEREAS**, refinancing the costs of the Refinanced Projects pursuant to the Purchase Agreement is in furtherance of the purposes of the City and in the public interest.

**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. (a) The execution and delivery of the Obligations by the Trustee are approved.

(b) The Mayor, the Manager and the Finance and Budget Director of the City are each authorized to determine on behalf of the City the date the Obligations are to be sold to the Underwriter but only if on such date the same shall result in a present value debt service savings, net of all costs associated with the execution and delivery of the Obligations of not less than \$200,000; the total aggregate principal amount of the Obligations which are to be executed and delivered but not to exceed in total the aggregate principal amount of \$12,100,000; the date the Obligations are to be dated; the dates on which interest on the Obligations is to be payable

and the interest rates per annum the Obligations are to bear; the dates the Obligations are to mature but not later than July 1, 2020, the principal amounts to mature on such dates and the provisions for redemption thereof in advance of such dates; the provision for redemption for all (but not less than all) of the Bonds (including the dates of redemption thereof) and the terms upon which the Obligations are to be sold to the Underwriter (including determinations of price, original issue discount and premium and underwriting compensation); provided, however, that the foregoing determinations shall not result in the yield on the Obligations, as calculated in accordance with Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), exceeding two percent (2%).

(c) The Mayor, Manager and Finance and Budget Director of the City are further each authorized to determine on behalf of the City provisions for credit enhancement for the Obligations including whether a debt service reserve fund should be established and an insurance policy securing payment of the Obligations or a surety bond or other reserve fund guaranty which would be a "qualified guarantee" for purposes of such Code would be advantageous to the City or the terms of the financing represented by the Obligations. The Mayor, Manager and Finance and Budget Director of the City are each authorized to add necessary provisions to documents and negotiate with and secure, with proceeds of the Obligations or otherwise, such an insurance policy or a reserve fund guaranty, or both, from one or more institutions, the claims-paying ability of which are then assigned one of the two highest rating categories by a nationally recognized credit rating agency. The Mayor, Manager and Finance and Budget Director of the City are each authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such insurance policy and/or reserve fund guaranty, including those making provision for the repayment of amounts advanced by the institutions issuing such insurance policy and/or reserve fund guaranty.

(d) The forms and other terms of the Obligations, including the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the Trust Agreement and are approved.

SECTION 3. The Obligations are to be sold to the Underwriter pursuant to the terms of the Purchase Contract as such terms are to be determined as provided hereinabove.

SECTION 4. The form, terms and provisions of the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract and the Undertaking, in substantially the forms of such documents (including the Obligations and other exhibits thereto) presented at the meeting of the City Council at which this Resolution is being adopted are approved, with such final provisions, insertions, deletions and changes as determined as provided hereinabove and shall be approved by the Mayor of the City and, in the case of the Purchase Contract, the Manager of the City, the execution of each such document being conclusive evidence of such approval, and the Mayor of the City and, in the case of the Purchase Contract, the Manager of the City, or the Clerk of the City, where applicable, are authorized and directed, for and on behalf of the City, to execute and deliver, and attest or approve, the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract and the Undertaking and to take all action to carry out and comply with the terms of such documents.

SECTION 5. The distribution of the Preliminary Official Statement by the Underwriter is approved, and the Official Statement in substantially the form of the Preliminary Official Statement, with such changes or revisions therein from the form of the Preliminary Official Statement as may be approved by the Mayor of the City executing the same, is approved, and the Mayor of the City is authorized, empowered and directed, in the name and on behalf of the City, to execute and deliver the same to the Underwriter and to execute and deliver instruments confirming that the Preliminary Official Statement is “deemed final” in accordance with Securities and Exchange Commission Rule 15(c)2-12.

SECTION 6. The Trustee (including in its capacity as Seller) is requested to take any and all action necessary in connection with the execution and delivery of the Purchase Agreement, the Trust Agreement, the Purchase Contract and the Undertaking and the sale and execution and delivery of the Obligations and is further authorized and directed to take such action as may be reasonable for the administration of the trusts so held by it. The Escrow Trustee is hereby requested to take any and all action necessary in connection with the execution and delivery of the Escrow Trust Agreement and is further authorized and directed to take such actions as may be reasonable for the administration of the trust so held by it.

SECTION 7. The covenants and agreements contained the Purchase Agreement as to the pledge of and the lien on Excise Tax Revenues and State Shared Revenues and the restriction on the issuance of further parity obligations secured by Excise Tax Revenues and State Shared Revenues are approved and confirmed.

SECTION 8. The Mayor, the Manager, the Finance and Budget Director and other officers of the City, on behalf of the City, are authorized and directed, without further order of the City Council, to do all such acts and things and to execute and deliver all such certificates, proceedings, agreements and other documents as may be necessary or convenient to be executed and delivered on behalf of the City, to evidence compliance with, or further the purposes of, all the terms and conditions of this Resolution and the consummation of the transactions contemplated by the Preliminary Official Statement and the Official Statement and as may be necessary to carry out the terms and intent of this Resolution, including, but not limited to, taking all actions necessary to liquidate any investments related to the bonds issued to finance the Refinanced Projects.

SECTION 9. All actions of the officers and agents of the City which conform to the purposes and intent of this Resolution and which further the sale and execution and delivery of the Obligations as contemplated by this Resolution, whether heretofore or hereafter taken, are ratified, confirmed and approved.

SECTION 10. If any section, paragraph, clause or phrase of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or phrase shall not affect any of the remaining provisions of this Resolution. All orders, ordinances and resolutions or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, ordinance or resolution or any part thereof.

SECTION 11. The immediate operation of the provisions of this Resolution is necessary for the refinancing of the Refinanced Projects on the most attractive terms available to the City and the preservation of the public health and welfare of the City; an emergency is hereby declared to exist; this Resolution shall be in full force and effect from and after the passage and approval by the City Council as required by law and this Resolution is hereby exempt from the referendum provisions of the City's Charter and the Constitution and laws of the State of Arizona.

SECTION 12. The Mayor, the City Manager or authorized designee, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Resolution.

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

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Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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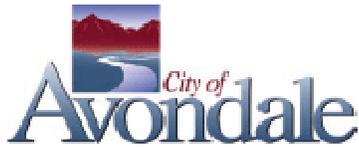
Andrew J. McGuire, City Attorney

CERTIFICATION

I hereby certify that the foregoing Resolution No. 3103-513 was duly passed and adopted by the Mayor and Council of the City of Avondale, Arizona, at a regular meeting held on the 6th day of May, 2013, and the vote was \_\_\_\_ ayes and \_\_\_\_ nays and that the Mayor and \_\_\_\_ Councilmembers were present thereat.

---

Carmen Martinez, City Clerk



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3104-513 - Authorizing Submission of Applications for Grant Consideration by the Gila River Indian Community

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Janice Simpson, Grants Administrator (623) 333-1025

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a Resolution to authorize the submission of application (s) for funding to the Gila River Indian Community (GRIC) and the acceptance of awards, should the project(s) be selected for funding.

**BACKGROUND:**

Funding from GRIC comes through a provision of the shared state revenue and Indian gaming compact approved as a result of 2002 Proposition 202 approved by Arizona voters. The compact allows a compacting tribe to distribute twelve percent (12%) of its total annual contribution to cities, towns, or counties for the benefit of the general public, under its program priorities of Economic Development, Education, Healthcare, Public Safety, and Transportation.

**DISCUSSION:**

The GRIC Office of Special Funding has made funding available for the upcoming year. Avondale City Departments will submit applications requesting funding under the GRIC program priorities of Economic Development, Education, Healthcare, Public Safety, and Transportation.

**BUDGETARY IMPACT:**

The City of Avondale will be requesting funding for multiple projects. There is not a match requirement for these funds.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution to authorize the submission of grant applications as well as authorize acceptance of grant awards, should they be offered, and authorize the Mayor, City Manager or City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

[Resolution 3104-513](#)

**RESOLUTION NO. 3104-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE SUBMISSION OF APPLICATIONS FOR GRANT CONSIDERATION BY THE GILA RIVER INDIAN COMMUNITY.

**WHEREAS**, the Gila River Indian Community (the “Community”) is accepting applications for Proposition 202 funding from state and local agencies for projects relating to public safety (police, fire, EMS), transportation, health care services, economic development and education (the “Community Priority Areas”); and

**WHEREAS**, the Council of the City of Avondale (the “City Council”) desires to submit grant applications for funds related to various Community Priority Areas (the “Applications”).

**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 City Council hereby approves the submission of the Applications for consideration by the Community.

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit all documents and any other necessary or desirable instruments in connection with the Applications, to execute any resulting grant agreements and to take all steps necessary to carry out the purpose and intent of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

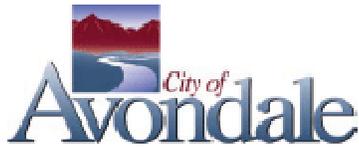
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Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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Andrew J. McGuire, City Attorney



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3105-513 - Amendment to an Intergovernmental Agreement for Jury Management Services

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Abril Ruiz-Ortega, Court Administrator (623) 333-5822

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a resolution authorizing an Amendment to an Intergovernmental Agreement between the City of Avondale and the Superior Court of Arizona in Maricopa County to provide jury services for the Avondale City Court, and authorize the Mayor and City Clerk to execute the necessary documents.

**BACKGROUND:**

On October 20, 2008, Council approved a Resolution Authorizing an Intergovernmental Agreement between the City of Avondale and the Superior Court of Arizona in Maricopa County for Jury Services.

**DISCUSSION:**

The Constitutions of the United States and of the State of Arizona give the right to a jury trial to anyone accused of a serious criminal case. The laws entitle defendants to a trial by a jury representative of the defendant's community.

The Courts process for selection of prospective jurors is through a random selection of names from the voter listing made available to the Jury Commissioner through the Maricopa County Elections Department . Once a master jury list is created a summons is issued to a pool of potential jurors to serve for jury service.

The City currently pays \$100 per year for the creation of a source file of names taken from the General Election Voter Registration Lists and the Department of Transportation.

**Case Activity - Jury Trial**

Staff has gathered information on the number of cases calendared for jury trial within the past five years. Seventeen matters were scheduled and one jury trial was held.

Jury Trials			
Year	Number of Cases Calendared	Change of Plea	Held
2008	3	2	1
2009	10	10	0
2010	2	2	0

2011	2	2	0
2012	0	0	0
<b>Total</b>	<b>17</b>	<b>16</b>	<b>1</b>

Avondale City Court may opt to enter into a full agreement in which residents would receive a summons from Superior Court, followed by a second summons with the expected week of service and a requirement to call the Municipal Court as many as three times during that given week.

The goal for the Avondale City Court is to continue to simplify the jury duty summons process. Under the proposed agreement Avondale City Court will continue to pay a fee of \$100.00 determined by Superior Court based on costs of labor and materials to generate said list. The list will be kept strictly confidential and used exclusively to summons residents for jury management purposes.

The Court is now seeking to formalize the agreement.

**BUDGETARY IMPACT:**

Funding for the source file will come from account number 101-6200-00- 6080, Jury Fees. Courts may purchase an updated file every year and pay a \$100.00 fee as established in the agreement.

**RECOMMENDATION:**

Staff is requesting that the City Council approve a resolution authorizing an amendment to the Intergovernmental Agreement between the City of Avondale and the Superior Court of Arizona in Maricopa County to provide jury services in the amount of \$100.00 for the Avondale City Court, and authorize the Mayor and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

[Resolution 3105-513](#)

**RESOLUTION NO. 3105-513**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY RELATING TO JURY MANAGEMENT SERVICES.

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

SECTION 1. The Amendment to the Intergovernmental Agreement with Maricopa County for jury management services (the “Amendment”) is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3105-513

[Amendment]



Thomas C. Horne  
Attorney General

Office of the Attorney General  
State of Arizona

Avondale

INTERGOVERNMENTAL AGREEMENT DETERMINATION

Attorney General Contract No. KR13-0008 which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those Parties to the Agreement represented by the Attorney General.

Dated this 28<sup>th</sup> Day of January, 2013

THOMAS C. HORNE  
The Attorney General

  
Assistant Attorney General

**FILED**

FEB. 07 2013

Avondale City Court  
11325 W Civic Center Dr.  
Avondale, Arizona 85323

**AMENDMENT  
TO INTERGOVERNMENTAL AGREEMENT  
FOR JURY SERVICES**

KR13-0008

On or about October 8, 2008, the City of Avondale, Avondale City Court, and the Superior Court of Arizona in Maricopa County entered into an intergovernmental agreement for Jury Services ("IGA") (a copy of which is attached).

Pursuant to paragraph 3 of the IGA, the parties may renew this agreement for an additional one-year term, commencing the first day of July 2013 with future requests for one-year terms through June 30, 2017.

The Avondale City Court has notified the Superior Court of its intent to renew for an additional one-year term pursuant to paragraph 3 of the IGA. The Superior Court agrees to renew the IGA under the same terms and conditions for an additional one-year term from July 1, 2013 through June 30, 2014.

**FILED**

FEB 07 2013

This Amendment renews the Jury Services IGA for the Avondale City Court for an additional one-year term, from July 1, 2013 through June 30, 2014, with the terms and conditions of the IGA entered on or about October 8, 2008.

Avondale City Court  
11525 W Civic Center Dr.  
Avondale, Arizona 85323

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

AVONDALE CITY COURT

SUPERIOR COURT OF ARIZONA IN  
MARICOPA COUNTY

  
\_\_\_\_\_  
Hon.  
Presiding Judge  
Avondale City Court

\_\_\_\_\_  
Hon. Norman J. Davis  
Presiding Judge  
Superior Court in Maricopa County

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Assistant Attorney General



Terry Goddard  
Attorney General

Office of the Attorney General  
State of Arizona

INTERGOVERNMENTAL AGREEMENT DETERMINATION

**KR09-0101**

Attorney General Contract No. \_\_\_\_\_ which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those Parties to the Agreement represented by the Attorney General.

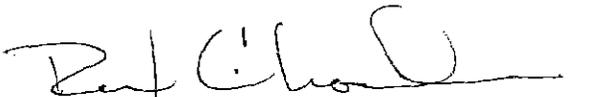
Dated this 9<sup>th</sup> Day of July, 2009

**FILED**

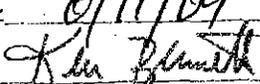
FEB 07 2013

TERRY GODDARD  
The Attorney General

Avondale City Court  
11325 W Civic Center Dr.  
Avondale, Arizona 85323

  
Assistant Attorney General

FILED FEB 07 2013

No. 30980  
Filed with the Secretary of State  
Date Filed: 8/11/09  
  
Secretary of State  
By: Keenz

**INTERGOVERNMENTAL AGREEMENT FOR JURY SERVICES**

(Secretary of State # \_\_\_\_\_, Filed \_\_\_\_\_)

THIS AGREEMENT MADE AND ENTERED INTO THIS 20 day of Oct., 2008 by the City of Avondale, Avondale Municipal Court, and the Superior Court of Arizona in Maricopa County (Superior Court).

WITNESSETH:

WHEREAS the parties have the authority to enter into this Agreement pursuant to A.R.S. §11-952 (L) et seq.;

WHEREAS the City of Avondale desires to use the services of Superior Court in providing jurors for City of Avondale Municipal Court; and

WHEREAS Superior Court agrees to provide the desired services on the terms and conditions hereinafter set forth.

**FILED**

FEB 07 2013

Avondale City Court  
11325 W Civic Center Dr.  
Avondale, Arizona 85323

IT IS MUTUALLY AGREED AS FOLLOVED:

(1) That Superior Court will identify the potential jurors for Avondale Municipal Court through the creation of a source file of names taken from the General Election Voter Registration Lists and the Department of Transportation. Superior Court shall provide the list of potential jurors to Avondale Municipal Court upon request, and Avondale Municipal Court will pay Superior Court the fee of \$100.00 based on the actual costs of labor and materials to generate and deliver said list.

(2) That Avondale Municipal Court agrees that all information accessed by employees of Avondale Municipal Court using any automated jury management system provided by Superior Court shall be kept strictly confidential and used exclusively for jury management purposes. Avondale Municipal Court further agrees to comply with the Minimum Accounting Standards and Generally Accepted Accounting Principles related to financial transactions involving jurors.

(3) This Agreement will remain in effect from July 1, 2008, until June 30, 2013, for an initial five-year period. The parties may renew this Agreement in writing for five (5) one-year terms beginning each year on July 1, 2014 and ending June 30, 2017. In order to renew this Agreement the **Avondale Municipal Court** must give a written notice of intent to renew to the **Superior Court** no later than May 14, 2014, and no later than May 14 prior to each one-year renewal term thereafter. On receipt of the Notice of Intent to Renew, the **Superior Court** will inform the **Avondale Municipal Court** by letter of proposed terms and conditions for the renewal. The **Avondale Municipal Court** will either accept or reject those terms and conditions in writing. Unless these terms and conditions are accepted or the parties negotiate compromise terms and conditions, this Agreement will terminate on June 30, 2013 and June 30 every year thereafter. Any amendments have to be in writing and must comply with A.R.S. §11-952. Upon termination, all property used in performance of this agreement shall be retained by the party owning the property or entitled to its possession.

(4) Either party may terminate this Agreement by giving written notice of not less than one hundred eighty (180) days to the other party.

(5) Pursuant to A.R.S. §35-214, both parties shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this IGA for a period of five years after completion of the IGA. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, the parties shall provide the original or a legible copy of any or all such records. The parties will comply with A.R.S. §35-214 with respect to retention and production of records for audit for a period of five years after the completion of the Agreement.

**FILED**

FEB 07 2013

Avondale City Court  
11325 W Civic Center Dr.  
Avondale, Arizona 85323

(6) The **Avondale Municipal Court** shall comply with all applicable state and federal laws.

(7) Every payment and performance obligation of the **Superior Court** under this IGA is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuances of this IGA, this IGA may be terminated by the **Superior Court**. In the event this provision is exercised, the **Superior Court** shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph. If this Agreement is terminated under the provisions of this paragraph, the time limits of paragraph 4 will not apply.

The parties hereto recognize that the continuation of this Agreement after the close of any given fiscal year of the **City of Avondale** is subject to the approval of the budget of the **City of Avondale** providing an appropriation covering this item as an expenditure therein. **City of Avondale** does not represent that the aforementioned budget item will actually be adopted, since such a budgetary determination is solely that of the of Avondale City Council at the time of the adoption of the budget. **City of Avondale's** fiscal years end on June 30 of each year. If funds are not allocated and available for the continuances of this IGA, this IGA may be terminated by the

**City of Avondale** by giving written notice of not less than sixty (60) days to the other party. In the event this provision is exercised, the **City of Avondale** shall not be obligated or liable for any costs incurred by **Superior Court** related to this Agreement after the expiration of the notice period.

(8) The **Avondale Municipal Court** shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules and regulations, including the Americans with Disabilities Act. The **Avondale Municipal Court** shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(9) INDEMNIFICATION AND INSURANCE:

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

FEB 7 2013 PM 1:52

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

(11) Pursuant to A.R.S. §38-511, the State of Arizona, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the State, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the IGA on behalf of the State, its political subdivisions, or any of the departments or agencies of either is, at any time while the IGA or any extension of the IGA is in effect, an employee or agent of any party to the contract in any capacity or a consultant to any other party of the IGA with respect to the subject matter of the IGA. A cancellation made pursuant to this provision by a party shall be effective when the other party receives written notice of the cancellation unless the notice specifies a later time.

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

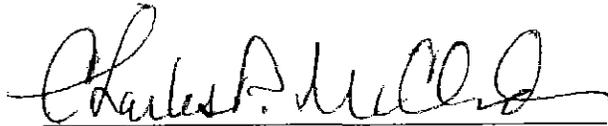
**FILED**

FEB. 07 2013

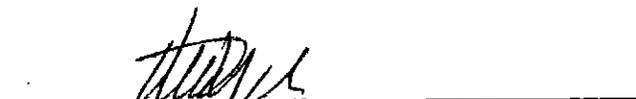
Avondale City Court  
11325 W Civic Center Dr.  
Avondale, Arizona 85323



Presiding Judge, Trial Courts of  
Arizona in Maricopa County



City of Avondale, a Municipal Corporation  
City Manager

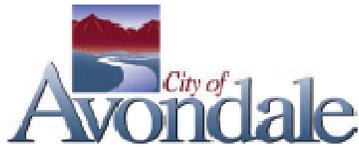
  
Presiding Judge, Avondale Municipal Court  
By: Avondale City Attorney

FEB 7 2013 PM 1:52

**FILED**

FEB. 07 2013

Avondale City Court  
11325 W Civic Center Dr.  
Avondale, Arizona 85323



# CITY COUNCIL REPORT

**SUBJECT:**

Ordinance 1516-513 - Dedication of Power  
Distribution Easement to SRP for City Center  
Phase III Project

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Charles Andrews, P.E., City Engineer, 623-333-4216

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt an ordinance dedicating a power distribution easement to Salt River Project Agricultural Improvement and Power District (SRP) for the City Center Phase III Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents.

**BACKGROUND:**

The approved 2012-2013 Capital Improvement Program (CIP) includes a project to design roadway, potable water, and sewer improvements as part of the roadway extensions of 114th Avenue and Park Avenue from Dale Earnhardt Drive to Roosevelt Street. The CIP also includes a project to design the Avondale City Center Transit Center.

**DISCUSSION:**

SRP Easements are a key part of Avondale City Center Phase III project. The easements are 8 foot wide strips extending about 660 feet north from the existing SRP power in Dale Earnhardt Drive to the south side Roosevelt Street within the proposed curvilinear right-of-way of 114th Avenue and Park Avenue. These also include crossing easements for power distribution to serve the proposed transfer station and adjacent lots in Avondale City Center.

Granting SRP this power distribution easement is a critical action allowing the final design and construction of Avondale City Center Phase III to advance.

**BUDGETARY IMPACT:**

The proposed dedication of easement to SRP will have no budgetary impact on the City.

**RECOMMENDATION:**

Staff recommends the City Council adopt an ordinance dedicating a power distribution easement to Salt River Project (SRP) for City Center Phase III Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

[Ordinance 1516-513](#)

**ORDINANCE NO. 1516-513**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, GRANTING AN EASEMENT TO SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT.

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

SECTION 1. A power distribution easement is hereby granted to Salt River Project Agricultural Improvement and Power District in the form attached hereto as Exhibit 1 and incorporated herein by reference, through, over, under and across certain real property, generally located north of Dale Earnhardt Drive and south of Roosevelt Street within the proposed curvilinear rights-of-way of 114th Avenue and Park Avenue, as more particularly described and depicted in the easement form attached hereto as Exhibit 1.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, May 6, 2013.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT 1  
TO  
ORDINANCE NO. 1516-513

[Power Distribution Easement]

See following pages.

**WHEN RECORDED MAIL TO:**

**SALT RIVER PROJECT**  
Land Department/PAB350  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

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**POWER DISTRIBUTION EASEMENT**

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Maricopa County  
SW ¼, Sec. 6, T1N, R1E

Agt. SCF  
Job # KJ6-319  
W \_\_\_\_\_ C \_\_\_\_\_

**CITY OF AVONDALE,  
an Arizona municipal corporation,**

hereinafter called Grantor, for and in consideration of the sum of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona, its agents, employees, contractors and permittees and its and their respective successors and assigns, hereinafter called the Grantee, a non-exclusive easement in, upon, over, under, across, through and along the lands hereinafter described (such lands hereinafter described being sometimes referred to herein as the "Easement Parcel") to construct, install, reconstruct, replace, remove, repair, operate and maintain underground electrical conductors, conduits, pipes, cables, vaults, pads, switching equipment, enclosures, manholes and transformers and all other appliances, appurtenances and fixtures (collectively "Facilities") for the transmission and distribution of electricity and for all other purposes connected therewith at such locations and elevations, in, upon, over, under, across, through and along the Easement Parcel as Grantee may now or hereafter deem convenient or necessary from time to time, together with the right of ingress and egress to, from, across and along the Grantor's Property. Grantee is hereby authorized to permit others to use the Easement Parcel for additional Facilities jointly with or separately from the Grantee for their purposes.

The lands in, upon, over, under, across, through and along which this easement is granted are situated in the County of Maricopa, State of Arizona, and are more particularly described as:

**Grantor's Property:**

That part of the Southwest Quarter of Section 6, Township 1 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, being more particularly described in Final Plat Of Avondale City Center Phase 1, Book Of Maps 1027, Page 31, records of Maricopa County, Arizona.

**Easement Parcel:**

Said easement as described on Exhibit A, attached hereto and by this reference made a part hereof.

**CAUTION:** Facilities placed within the Easement Parcel may contain high voltage electrical equipment. Notice is hereby given that the location of underground electrical conductors or facilities must be verified as required by Arizona Revised Statutes, Section 40-360.21, et seq., Arizona Blue Stake Law, prior to any excavation.

Grantor shall maintain a clear area that extends 3.00 feet from and around all edges of all transformer pads and other equipment pads, and a clear operational area that extends 12.00 feet immediately in front of all transformer and other equipment openings. No obstruction, trees, shrubs, fixtures or permanent structures shall be placed within said areas.

Grantor shall not construct, install or place, or permit to be constructed, installed or placed any building or other structure, plant any trees, drill any well, store materials of any kind, or alter ground level by cut or fill, within the area of the Easement Parcel.

Grantee shall have the right (but not the obligation) to trim, cut and clear away trees, brush or other vegetation on the Easement Parcel whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

In the event Grantee records a document to formally abandon the easement granted herein, all Grantee's rights hereunder shall cease, except the right to remove any and all property placed upon the Easement Parcel within a reasonable time subsequent to such abandonment.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of and shall be binding on the heirs, administrators, executors, personal representatives, legal representatives, successors (including successors in ownership and estate), assigns and lessees of the Grantor and Grantee.



January 9, 2013  
Avondale City Center

Salt River Project  
POWER DISTRIBUTION EASEMENT

LEGAL DESCRIPTION

An easement for underground power distribution purposes located within portions of the Southwest Quarter of Section 6, Township 1 North Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona being strips of land 8 feet in width lying 4.00 feet on each side of the following described centerlines:

Easement Part I – 114<sup>th</sup> Avenue alignment

Commencing at the west quarter corner of said Section 6 from which the southwest corner thereof bears South 00 degrees 2 minutes 19 seconds East, 2626.69 feet distant, as the basis of bearing;

Thence North 88 degrees 59 minutes 42 seconds East, along the mid-section line of said Section 6, a distance of 498.08 feet;

Thence South 00 degrees 02 minutes 22 seconds East a distance of 55.01 to the True Point of Beginning of Easement Part 1;

Thence South 00 degrees 02 minutes 22 seconds East a distance of 71.14 meet to the beginning of a curve concave westerly having a radius of 171.00 feet,

Thence southerly along the arc of said curve through a central angle of 14 degrees 15 minutes 20 seconds a distance of 42.55 feet to a point on a compound curve concave northwesterly having a radius of 171.00 feet, said point being hereinafter designated as Point "A";

Thence southerly along the arc of said compound curve through a central angle of 20 degrees 22 minutes 05 seconds a distance of 60.79 feet to a point on a reverse curve concave southeasterly having a radius of 129.00 feet;

Thence southerly along the arc of said reverse curve through a central angle of 34 degrees 34 minutes 54 seconds a distance of 77.86 feet to a point of tangency;

Thence South 00 degrees 02 minutes 16 seconds East a distance of 81.20 feet to a point hereinafter designated as Point "B"

Thence continuing South 00 degrees 02 minutes 16 seconds East a distance of 308.58 feet to a point hereinafter designated as Point "C"

Avondale City Center  
SRP PDE – City of Avondale  
Legal Description, continued

Thence South 00 degrees 02 minutes 16 seconds East a distance of 14.21 feet to the terminus of said easement Part 1.

Together with the following:

Beginning from said Point "A" thence North 75 degrees 49 minutes 27 seconds West a distance of 65.00 feet.

Also Beginning from said Point "A" thence South 75 degrees 49 minutes 27 seconds East a Distance of 23.00 feet.

Beginning from said Point "B" thence South 89 degrees 57 minutes 44 seconds West a distance of 65.00 feet.

Also beginning from said Point "B" thence North 89 degrees 57 minutes 44 seconds East a distance of 23.00 feet.

Beginning from said Point "C" thence North 89 degrees 57 minutes 44 seconds East a distance of 23.00 feet.

Easement Part 2 – Park Avenue alignment

Commencing at the west quarter corner of said Section 6 from which the southwest corner thereof bears South 00 degrees 2 minutes 19 seconds East, 2626.69 feet distant, as the basis of bearing;

Thence North 88 degrees 59 minutes 42 seconds East, along the mid-section line of said Section 6, a distance of 850.41 feet;

Thence South 00 degrees 02 minutes 08 seconds East a distance of 55.01 to the True Point of Beginning of Easement Part 2;

Thence South 00 degrees 02 minutes 08 seconds East a distance of 49.81 feet to a point hereinafter designated as Point "D";

Thence continuing South 00 degrees 02 minutes 22 seconds East a distance of 27.30 to the beginning of a curve concave northeasterly having a radius of 129.22 feet;

Avondale City Center  
SRP PDE – City of Avondale  
Legal Description, continued

Thence southerly along the arc of said curve through a central angle of 45 degrees 43 minutes 27 seconds a distance of 103.12 feet to the point of a reverse curve concave southwesterly having a radius of 171.22 feet;

Thence southerly along the arc of said curve through a central angle of 41 degrees 19 minutes 08 seconds a distance of 123.48 feet to a point on a compound curve concave westerly having a radius of 171.22 feet, said point hereinafter designated as Point “E”;

Thence southerly along the arc of said curve through a central angle of 4 degrees 22 minutes 11 seconds for a distance of 13.06 to the point of tangency;

Thence south 00 degrees 2 minutes 08 seconds East a distance of 190.39 feet to the beginning of a curve concave easterly having a radius of 186.50 feet;

Thence southerly along the arc of said curve through a central angle of 4 degrees 34 minutes 53 seconds a distance of 14.91 feet to a point on a compound curve concave northeasterly having a radius of 186.50 feet, said point hereinafter designated as Point “F”;

Thence southerly along the arc of said curve through a central angle of 23 degrees 09 minutes 23 seconds a distance of 75.37 feet to the beginning of a reverse curve concave southwesterly having a radius of 214.86 feet;

Thence southerly along the arc of said curve through a central angle of 25 degrees 17 minutes 50 seconds a distance of 94.87 feet to a point on a compound curve concave westerly having a radius of 214.86 feet, said point hereinafter designated as Point “G”;

Thence southerly along the arc of said curve through a central angle of 2 degrees 52 minutes 27 seconds for a distance of 10.78 feet;

Thence due South a distance of 67.86 feet to the terminus of said Easement Part 2.

Together with the following:

Beginning from said Point “D” thence South 89 degrees 57 minutes 52 seconds West a distance of 77.50 feet;

Also beginning from said Point “D” thence North 89 degrees 57 minutes 52 seconds East a distance of 23.00 feet;

Beginning from said Point “E” thence South 89 degrees 57 minutes 45 seconds West a distance of 65.29 feet;

Avondale City Center  
SRP PDE – City of Avondale  
Legal Description, continued

Also beginning from said Point “E” thence North 89 degrees 57 minutes 45 seconds East  
a distance of 23.07 feet;

Beginning from said Point “F” thence South 89 degrees 57 minutes 52 seconds West a  
distance of 85.06 feet;

Also beginning from said Point “F” thence North 89 degrees 57 minutes 52 seconds East  
a distance of 41.86 feet;

Beginning from said Point “G” thence South 89 degrees 57 minutes 52 seconds West a  
distance of 153.21 feet.



EXPIRES: June 30, 2013

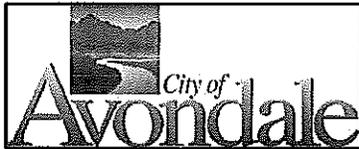


CURVE TABLE			
NO	RADIUS	LENGTH	DELTA
1	171.00'	42.55'	14°15'20"
2	171.00'	60.79'	20°22'05"
3	129.00'	77.86'	34°34'54"
4	129.22'	103.12'	45°43'27"
5	171.22'	123.48'	41°19'08"
6	171.22'	13.06'	4°22'11"
7	186.50'	14.91'	4°34'53"
8	186.50'	75.37'	23°09'23"
9	214.86'	94.87'	25°17'50"
10	214.86'	10.78'	2°52'27"

LINE TABLE		
NO	BEARING	DISTANCE
1	S00°02'22"E	55.01'
2	S00°02'22"E	71.14'
3	S00°02'16"E	81.20'
4	S00°02'16"E	14.21'
5	N75°49'27"W	65.00'
6	S75°49'27"E	23.00'
7	S89°57'44"W	65.00'
8	N89°57'44"E	23.00'
9	N89°57'44"E	23.00'
10	S00°02'08"E	55.01'
11	S00°02'08"E	49.81'
12	S00°02'08"E	27.30'
13	S00°00'00"E	67.86'
14	S89°57'52"W	77.50'
15	N89°57'52"E	23.00'
16	S89°57'45"W	65.29'
17	N89°57'45"E	23.07'
18	S89°57'52"W	85.06'
19	N89°57'52"E	41.86'

### LEGEND

-  Point Letter
-  Centerline 8 foot wide SRP Power Dist Easement
-  Curve Number
-  Line Number
-  Boundary Line
-  Future Right-of-Way



ENGINEERING  
DEPARTMENT



EXPIRES: JUNE 30, 2013

### EXHIBIT MAP

SRP Power Distribution Easement  
Part of Lots 1 & 2  
Avondale City Center Phase One  
Book 1027 of Maps Page 31 MCR

DATE: 1-09-2013

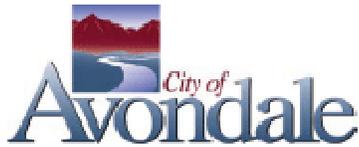
DSN: \_\_\_\_\_

DRN: LS

CHK: CH

PROJECT NAME  
ACC Lot 1&2 PUE

PAGE: 2 of 2



# CITY COUNCIL REPORT

**SUBJECT:**  
Economic Development Agreement - Gunbo, LLC

**MEETING DATE:**  
May 6, 2013

**TO:** Mayor and Council  
**FROM:** Daniel Davis, Economic Development Director (623) 333-1411  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve an Economic Development Agreement with Gunbo, LLC regarding the construction and operation of Main Event Family Entertainment Center.

**BACKGROUND:**

During the last 5 years, staff has worked with Mr. Gunbo Park, owner of Gunbo, LLC and Parkland Development, regarding the development of a 40 acre mixed-use project called Park 10 located between 107th and 103rd Avenues and McDowell Road and Interstate 10.

Mr. Park has entered into a Letter of Intent with Main Event Entertainment, LP to construct a 58,000 SF family entertainment center. The facility will feature a restaurant, bar, bowling, billiards, arcade games, laser tag and meeting room space.

On April 1, 2013, City Council adopted a Notice of Intent to enter into a Retail Development Tax Incentive Agreement and Findings of Fact. Applied Economic, completed an independent Economic Impact Analysis that indicated the proposed facility is anticipated to generate more revenue than the amount of incentives during the term of the agreement and without the incentive the new facility would not locate within the City of Avondale.

**DISCUSSION:**

The Economic Development Agreement provides reimbursement of \$500,000 for city required infrastructure improvements along McDowell Road and 103th Avenue, a rebate of the unrestricted portion of the construction sales tax up to an amount not to exceed \$75,000, plus a rebate of the unrestricted transaction privileged tax in the amount of \$225,000.

Main Event Entertainment has submitted a conceptual site plan and is scheduled to have a pre-application review of the project with staff from Development Services on May 7, 2013. Construction will begin within 6 months of this agreement and be completed in the spring of 2014.

**BUDGETARY IMPACT:**

The total amount of reimbursements for this project will not exceed \$800,000. This rebate will be returned from revenue that would not otherwise have been collected without the construction of the project or from sales taxes collected by the City that may not have been otherwise received as a result of the operations of the new facility.

This use is consistent with the Council's goal of business attraction that brings a unique entertainment venue to the city, increase the value of the property for property tax purposes, enhance the city's freeway corridor, create significant opportunities for new employment, and enhance retail transaction sales tax collections in the city.

**RECOMMENDATION:**

Staff recommends that the City Council approve an Economic Development Agreement with Gunbo, LLC regarding the construction and operation of Main Event Family Entertainment Center.

**ATTACHMENTS:**

Click to download

[EDA](#)

**ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
GUNBO, LLC**

THIS ECONOMIC DEVELOPMENT AGREEMENT (this “Agreement”) is made May 6, 2013 (the “Effective Date”), by and between the City of Avondale, an Arizona municipal corporation (the “City”) and Gunbo LLC, an Arizona limited liability company d/b/a Parkland Development (the “Developer”).

RECITALS

A. Developer desires to cause the construction of an approximately 58,000 square foot family entertainment center under the “Main Event” name (the “New Facility”) substantially similar to the “Main Event” venue operated by Main Event Entertainment, LP (the “Operator”) at 1911 N. Loop 1604 East, San Antonio, Texas (the “Benchmark Facility”), including all related on-site and offsite infrastructure, on approximately 6.7 acres of real property generally located near the southwest corner of McDowell Road and 103rd Avenue in Avondale, Arizona, which property is described and depicted on Exhibit A, attached hereto and incorporated herein by reference (the “Property”). Developer has specifically committed to the City, and the City’s willingness to enter into this Agreement is specifically contingent upon Developer’s assertion, that the New Facility (i) will be opened and operated by the Operator, (ii) will be substantially similar to the Benchmark Facility and (iii) will remain in operation for a period of not less than six years.

B. The City desires that Developer cause to be constructed and developed, the New Facility on the Property to (i) provide a unique entertainment venue for the Southwest Valley, (ii) increase the value of the Property for property tax purposes, (iii) enhance the City’s freeway presence, (iv) create significant new opportunities for employment in Avondale and (v) enhance retail transaction (sales) tax collections in the City. The City has determined, based upon analysis by its economic development staff, that the New Facility would not locate on the Property in the absence of this Agreement.

C. On April 1, 2013, the Council of the City of Avondale (the “City Council”) adopted that certain document entitled “Notice of Intent to Enter Into a Retail Development Tax Incentive Agreement and Findings of Fact” (the “Notice of Intent”), attached hereto as Exhibit B and incorporated herein by reference. Included within the Notice of Intent were findings showing (i) that the New Facility is anticipated to raise more revenue than the amount of the incentives set forth below within the duration of this Agreement and (ii) that, in the absence of the tax incentives proposed in this Agreement, the New Facility would not locate within the corporate boundaries of the City of Avondale at the same time or place (collectively, the “Findings”). Clause (i) above, as included in the Findings, was independently verified on March 27, 2013, by an outside consultant, Applied Economics (the “Verification”), which is attached as an exhibit to the Notice of Intent set forth in Exhibit B. By executing this Agreement, Developer hereby agrees and affirms that it (i) did not finance, or cause to be financed, the Verification, (ii) did not have input into the selection of Applied Economics for the purposes of such Verification and (iii) would not have been able to entice

the Operator to locate the New Facility in Avondale in the same manner in the absence of the tax incentives set forth in this Agreement.

D. The City Council accepted the Findings on April 1, 2013, by a unanimous affirmative vote accepting the Notice of Intent.

E. The City collects transaction privilege taxes (levied pursuant to the City Tax Code) for taxable construction activities (“Construction Sales Taxes”) related to the Project. One percent of the City’s 2.5% rate for Construction Sales Taxes is restricted for funding public safety, water, sewer and streets (the “Restricted Construction Sales Tax Portion”). The Construction Sales Taxes minus the Restricted Construction Sales Tax Portion are referred to herein as the “Unrestricted Construction Sales Taxes.” The City collects transaction privilege taxes (levied pursuant to the City Tax Code) for taxable retail sales, service, admissions, exhibitions, amusements, restaurant, bar, hotel and all other taxable activities, but specifically excluding leasing (“Retail Sales Taxes”), for uses to be constructed and operated on the Property. One percent of the City’s 2.5% rate for Retail Sales Taxes is restricted for funding public safety, water, sewer and streets (the “Restricted Retail Sales Tax Portion”). The Retail Sales Taxes minus the Restricted Retail Sales Tax Portion are referred to herein as the “Unrestricted Retail Sales Taxes.”

F. The City Council is empowered, pursuant to ARIZ. REV. STAT. § 9-500.11, to appropriate public funds to further employment opportunities and economic enhancement of the City. Accordingly, the City Council has determined that it is in the best interests of the citizens of Avondale to (i) rebate a portion of the Unrestricted Construction Sales Taxes generated and collected for construction of the New Facility and related infrastructure and (ii) repay certain amounts advanced by or on behalf of the Developer for Construction of public infrastructure and rebate a portion of the Unrestricted Retail Sales Taxes collected from taxable activities on the Property, both to reimburse Developer for certain costs associated with public infrastructure necessary for development of the New Facility, all to provide opportunities for enhanced economic welfare and new job creation in Avondale.

## **AGREEMENT**

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

1. Developer Obligations.

1.1 Property Lease. Developer shall, not later than 90 days after the Effective Date, enter into a binding lease with the Operator for Operator to occupy the Property and construct the New Facility on the Property and otherwise commit itself, its successors and assigns to an irrevocable long-term lease, not less than 15 years in duration, entitling the Operator to occupy and use the Property for purposes related to the New Facility.

1.2 Developer Improvements. Developer shall cause to be designed and constructed, according to City standards, (A) the roadway improvements, the on-site parking and driveway improvements and other such improvements as depicted on the Conceptual Site Plan prepared and submitted to the City for the pre-application meeting on April 25, 2013, prepared by Hunter Engineering (the “Initial Site Plan”), attached hereto as Exhibit C and incorporated herein by reference, and (B) the buildings on the Property in accordance with the architectural elevations submitted to the City, dated April 23, 2013, prepared by Hodges & Associates Architecture (the “Initial Architectural Plan”), attached hereto as Exhibit D and incorporated herein by reference. The Initial Site Plan and the Initial Architectural Plan are collectively referred to herein as the “Initial Site Plan Documents.” Developer agrees and understands that the Reimbursed Infrastructure Costs (as defined below) and the payment of the Construction Tax Rebate and the Retail Tax Rebate (as defined below) are specifically conditioned upon it causing development of the New Facility on the Property substantially in accordance with the Initial Site Plan Documents. Notwithstanding the foregoing, Developer may amend or otherwise modify the Initial Site Plan Documents so long as such amendments or modifications are (A) in accordance with the City’s customary policies and procedures for such amendments or modifications and (B) consistent with the intent of this Agreement, as determined by the City in its sole discretion. Developer shall publicly bid all of the public infrastructure depicted on the Initial Site Plan (the “Public Infrastructure”) in accordance with the City’s procurement procedures and shall, prior to award of a contract pursuant to any such bids, provide the City with the opportunity to review all bids and to confirm that the Developer’s selection of contractors to whom the contracts are to be awarded is in compliance with applicable law, which approval may be withheld by the City in its reasonable discretion. Upon completion and acceptance of the Public Infrastructure, Developer shall submit to the City the actual costs to design and construct the Public Infrastructure (the “Public Infrastructure Costs”), including all information necessary for the City to reasonably verify such costs. Once verified, the Public Infrastructure Costs shall be the maximum amount of the Rebate that developer may receive pursuant to this Agreement, subject to the limitations set forth in subsection 2.2 below.

1.3 Business Construction and Operation. Developer, its successors or assigns, shall develop the Property and operate or cause to be operated the New Facility thereon, consistent with the Initial Site Plan Documents and all City regulations, for a period of at least six years from the Opening Date, as defined in this subsection (the “Operating Period”). Developer agrees and understands that the City’s obligations to pay the Rebate (as defined below) and to cause the Reimbursed Infrastructure Costs (as defined below) to be paid are specifically conditioned upon the construction and operation of the New Facility in the location shown on the Initial Site Plan Documents and in the form shown on the Initial Architectural Plan and consistent with the Benchmark Facility. Developer shall cause construction of the New Facility to begin within 12 months of the Effective Date and shall ensure complete construction and opening of the New Facility to begin for business at the location shown on the Site Plan Documents not later than 24 months from the Effective Date (the date of such construction completion and opening is referred to herein as the “Opening Date”). After construction is completed and the New Facility is opened for business on the Property, Developer shall ensure that the Operator, its successors or assigns shall continuously operate, or cause to be operated, the New Facility on the Property at all times during the Operating Period. The Developer Property lease obligations set forth in subsection 1.1 above, the Developer improvements obligations set forth in subsection 1.2 above and the business construction

and operation obligations set forth in this subsection 1.3 are collectively referred to herein as the “Developer Obligations.”

1.4 Force Majeure Events. In the event that the New Facility is damaged by a force majeure event, and such damage renders more than 1/3 of its floor area unusable, the time periods for completing the Developer Obligations shall be tolled until such time as the damaged portion of the New Facility may be repaired and returned to operating condition wherein not more than 1/3 of the floor area is unusable; provided, however, that the time periods shall only be tolled in the event that the Developer immediately commences repairs and diligently pursues to completion such repairs; provided further, however, that no such repair/tolling period shall extend beyond 180 days after the last date of a force majeure event. The term “force majeure” means an occurrence that is beyond the control of the party affected and occurs without its intentional misconduct or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, strikes, labor disputes, civil disorders, fire, floods, lockouts, injunctions and other similar occurrences beyond the control of the Developer which Developer is unable to prevent by exercising reasonable diligence. The force majeure event shall be deemed to commence when the Developer notifies the City, in accordance with Section 9 below, of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the Developer from resuming performance in accordance with this Agreement. If Developer declares a force majeure event, the Operating Period shall be extended for a period equal to the length of any such force majeure event and the corresponding repair period.

2. City Obligations. The Developer Obligations set forth in Section 1 above shall be a continuing pre-condition to the City’s obligations as set forth in this Section 2. For so long as Developer fully performs the Developer Obligations, the City shall be obligated to perform as set forth below.

2.1 Construction Sales Tax Rebate. The City shall, as set forth in this Section 2, rebate 50% of the Unrestricted Construction Sales Taxes generated and paid as a result of taxable construction activities relating to construction of the Project (the “Construction Tax Rebate”); provided, however that such Construction Tax Rebate shall not exceed \$75,000. Subject to the liquidated damages provisions set forth in Section 8 below, if Developer causes the Operator its successors or assigns, to construct the New Facility according to the schedule set forth in Section 1 above, the City hereby agrees to pay the Developer the Construction Tax Rebate attributable to the Property and paid to the City by Developer or any person, firm or entity providing construction contracting activities for construction of the New Facility (each a “Constructing Party”). The Construction Tax Rebate shall be payable as set forth in Section 4 below. Developer agrees and understands that, in the event Construction Sales Taxes are no longer able to be collected by the City due to legislative enactment, the City’s obligations in this Subsection 2.1 shall be extinguished, and the City shall not be obligated to substitute any other funds in place of the lost Construction Sales Taxes and shall not have any further obligations relating to the Construction Tax Rebate.

2.2 Retail Sales Tax Rebate. The City shall collect all Sales Taxes remitted by the sales-tax-generating businesses operating on the Property (the “Retail Businesses”) according to applicable law. Subject to the liquidated damages provisions set forth in Section 8 below, as an inducement to Developer, its successors or assigns, to maintain the New Facility, on the Property for

a period of at least six years, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Retail Businesses and paid to the City. Commencing upon the Opening Date and continuing for a period not to exceed four years thereafter (the day ending such four-year period being designated as the “Latest Retail Rebate Termination Date”), unless terminated earlier as set forth below in this subsection 2.2, the City shall rebate to Developer 0.75% of the net taxable sales generated by taxable activities on the Property for which Retail Sales Taxes are collected (the “Retail Tax Rebate”); provided, however, that no such Retail Tax Rebate shall be paid unless the corresponding Sales Taxes due to the City from the Retail Businesses have been paid. The Retail Tax Rebate shall be payable in annual installments as set forth in Section 4 below. The City’s obligation to pay the Retail Tax Rebate payments to Developer pursuant to this subsection 2.2 will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier to occur of (A) the Latest Retail Rebate Termination Date, (B) Developer receiving a total amount (including the Construction Tax Rebate, the Reimbursed Infrastructure costs and the Retail Tax Rebate) equal to the Public Infrastructure Costs or (C) the Developer receiving total of \$225,000 from the aggregate amount of the Retail Tax Rebate, the occurrence of either of which is referred to as the “Retail Rebate Termination.” The Construction Tax Rebate and the Retail Tax Rebate are collectively referred to herein as the “Rebate.”

2.3 Reimbursed Infrastructure Costs. Subject to the liquidated damages provisions set forth in Section 8 below and upon completion of the City-required improvements to McDowell Road and 103rd Avenue (the “Right-of-Way Improvements”) by the Developer or the Operator, and upon acceptance of such Right-of-Way Improvements by the City, the City shall pay the Developer the actual amount of the costs of the Right-of-Way Improvements required as a result of development of the New Facility on the Property (the “Reimbursed Infrastructure Costs”); provided, however, that the total of the Reimbursed Infrastructure Costs shall not exceed \$500,000.

3. Term. The Term of this Agreement shall commence upon the Effective Date and shall remain in full force and effect until the date that is seven years after the Opening Date, unless sooner terminated pursuant to Section 7 below. The Retail Tax Rebate shall become effective on the Opening Date and shall remain in full force and effect until the Retail Rebate Termination, unless terminated sooner pursuant to Section 7 below.

4. Payment Method.

4.1 Construction Tax Rebate. The Construction Tax Rebate shall be paid to Developer within 60 days after (A) all Construction Sales Taxes due from any Constructing Party are paid in full to the City and (B) the New Facility (1) has received a certificate of occupancy from the City and (2) is lawfully open to the general public; provided, however, that the Construction Tax Rebate shall begin to accrue for the benefit of the Developer upon the City’s receipt of any Construction Sales Tax due from any Constructing Party for subsequent disbursement to the Developer as described in this subsection 4.1.

4.2 Retail Tax Rebate. The first annual payment required by subsection 2.2 above shall be paid no later than 60 days after the end of the calendar year following the Opening Date; provided, however, that the Retail Tax Rebate shall begin to accrue for the benefit of the Developer upon the City’s receipt of any Retail Sales Taxes generated by taxable activities occurring on the

Property for subsequent disbursement to the Developer as described in this subsection 4.2. Subsequent annual payments will be made no later than 60 days after the end of each succeeding calendar year. Notwithstanding the termination of the City's obligation to make the Retail Tax Rebates, the City shall remain obligated to pay, upon the next occurring annual payment date, any amounts due to Developer that accrued prior to such termination. Each annual payment will be mailed to Developer at the address set forth in Section 9 below, or as otherwise agreed to by Developer and the City.

4.3 Reimbursed Infrastructure Costs. The Reimbursed Infrastructure Costs shall be paid to Developer within 60 days after the latest to occur of (A) all Construction Sales Taxes due from any Constructing Party are paid in full to the City and (B) the New Facility (1) has received a certificate of occupancy from the City and (2) is lawfully open to the general public.

5. Waiver of Confidentiality. Developer hereby waives, for the term of this Agreement, any rights it may have to keep confidential any records indicating the amount of sales generated by the New Facility on the Property. Developer further agrees to (i) take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records and (ii) require, as part of any contract or agreement between Developer and any Constructing Party or any person, firm or entity owning or operating any portion of the New Facility on the Property (the "Property Occupants"), that such Constructing Party and Property Occupants agree to waive, for the term of this Agreement, any rights it may have to keep confidential any records indicating the amount of taxable construction activity relating to the Project.

6. Rebates Not a Debt. The City's obligations pursuant to the provisions of this Agreement that require the expenditure of funds do not constitute a general obligation or indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction, and do not obligate the City to make any expenditure from proceeds of ad valorem taxes or obligations to which any general taxing authority is pledged unless the expenditure has been duly budgeted, if and to the extent required by law, and is within all budget and expenditure limitations of, and is not in conflict with, the Constitution or laws of the State of Arizona. The City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not diminish Developer's rights to assert claims for such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebates, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party (the "Cure Period"), such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such Cure Period exceed 120 days.



and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

10. Verification of Employment Eligibility; E-Verify Program. The parties agree that the incentives provided for in this Agreement are economic development incentives as defined in ARIZ. REV. STAT. § 23-214(B)(1) and that this Agreement is subject to the provisions of such statute. Not later than 30 days after the Effective Date, Developer shall register with and participate in the employment verification program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any successors to such program (the "E-Verify Program"). Thereafter, prior to receiving any of the economic incentives contemplated by this Agreement, Developer shall provide proof to the City that Developer is registered with and is participating in the E-Verify Program, as set forth in Section 4 above. If the City determines that the Developer is not complying with the requirements of ARIZ. REV. STAT. § 23-214, the City shall notify Developer by certified mail of the City's determination of noncompliance and the Developer's right to appeal such determination, which appeal process shall be determined by the City in its sole discretion. Upon final determination of Developer's noncompliance Developer shall repay all monies received as an economic incentive under this Agreement to the City within 30 days of such final determination and such repayment shall not be reduced or limited by the payment process described in Section 8 above.

11. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

12. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

13. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

14. Headings. The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

15. Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

16. Time of the Essence. Time is of the essence in this Agreement.

17. Offset.

a. Offset for Damages. In addition to all other remedies at law or equity, after providing written notice to the Developer, the City may offset from any money due to the Developer any amounts Developer 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 Developer any amounts Developer owes to the City for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

18. Assignment. This Agreement may be assigned, in whole or in part, by Developer only upon the prior, written approval of the City, as evidenced by the City Manager's signature thereon, which approval may not be unreasonably withheld by the City; provided, however, that Developer may assign this Agreement without the City's consent, but with not less than 30 days prior, written notice to the City, to (i) any parent, subsidiary or affiliate of Developer, (ii) any person or entity that acquires all or substantially all of the assets of Developer or (iii) any lender to Developer as collateral security for the obligations of Developer under any credit facility or financing arrangement with respect to Property.

19. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

20. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Developer unless and until it has been executed by an authorized representative.

21. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

22. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.



**“Developer”**

GUNBO, LLC,  
an Arizona limited liability company d/b/a  
Parkland Development

By: \_\_\_\_\_  
Gun Bo Park, Managing Member

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on \_\_\_\_\_, 2013, by  
Gun Bo Park, the Managing Member of GUNBO, LLC, an Arizona limited liability company d/b/a  
Parkland Development, on behalf of the limited liability company.

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

(affix notary seal here)

**EXHIBIT A  
TO  
ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
GUNBO, LLC**

[Property Legal Description and Map]

See following pages.

MAIN EVENT ENTERTAINMENT  
GUNBO, LLC  
Part of APN 102-54-003A

LEGAL DESCRIPTION

That Part of Lot 3, Section 5, Township 1 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona;

Commencing at the North Quarter corner of said Section 5, from which the Northwest corner thereof bears South  $88^{\circ}58'43''$  West, 2637.76 feet distant, as the basis of bearing;

Thence South  $0^{\circ}05'17''$  East a distance of 538.95 feet to the True Point of Beginning

Thence South  $0^{\circ}05'17''$  a distance of 259.70 feet to a point on the northerly right-of-way line of Interstate 10, as described in Docket 16136, Page 766 official records of Maricopa County;

Thence South  $89^{\circ}10'04''$  West along said right-of-way line for a distance of 538.22 feet;

Thence departing from said right-of-way line North  $01^{\circ}01'17''$  West a distance of 553.27 feet;

Thence North  $88^{\circ}58'43''$  East a distance of 507.25 feet;

Thence South  $0^{\circ}05'17''$  East a distance of 294.77 feet;

Thence North  $89^{\circ}54'43''$  East a distance of 40.00 feet to the True Point of Beginning;

Said Parcel contains 6.6 Acres area, more or less

**MCDOWELL ROAD**

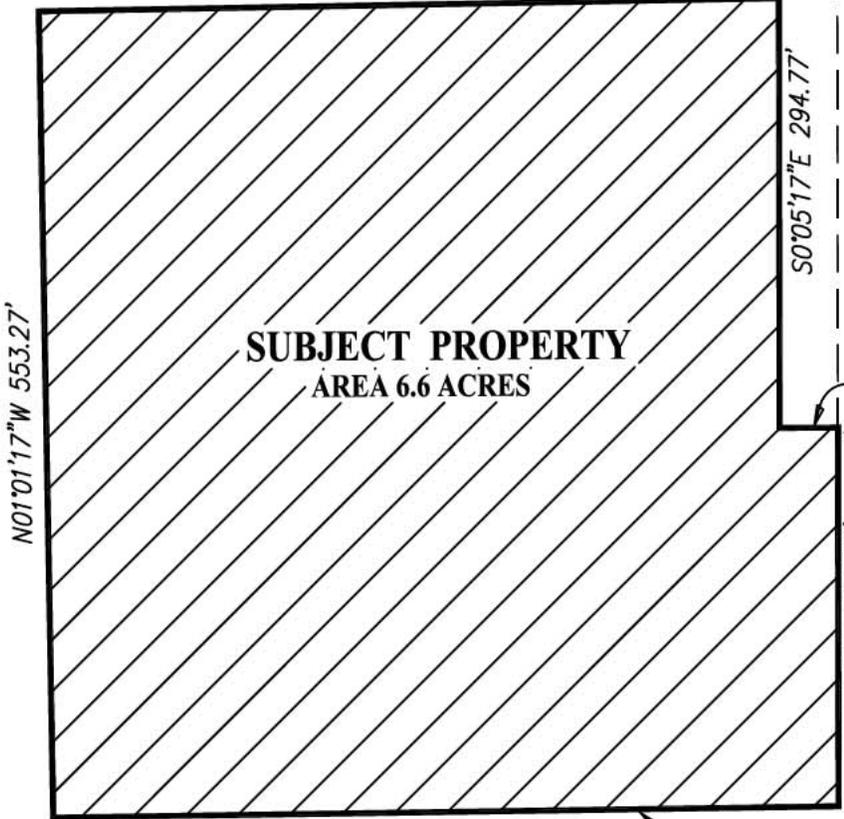
*N88°58'43"E 2637.76'*

Northwest Corner Section 5  
T1N, R1E, G&SRM  
Maricopa County, Arizona

North 1/4 corner  
Section 5



*N88°58'43"E 507.25'*



**103RD AVENUE**

*S0°05'17"E 538.95'*

*N89°54'43"E 40.00'*

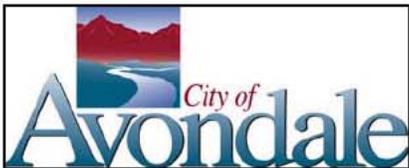
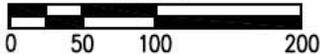
Point of Beginning

*S89°10'04"W 538.22'*

**INTERSTATE 10**

Northerly right-of-way line  
per Dkt 16136, Pg766 MCR

SCALE



ENGINEERING  
DEPARTMENT

EXHIBIT MAP  
TO LEGAL DESCRIPTION  
MAIN EVENT ENTERTAINMENT  
6.6 ACRES AREA

DATE: 5-1-2013  
DSN: \_\_\_\_\_  
DRN: LS  
CHK: CH

PROJECT NAME  
MAIN EVENT

PAGE  
1 OF 1

**EXHIBIT B  
TO  
ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
GUNBO, LLC**

[Notice of Intent and Verification]

See following page.

**NOTICE OF INTENT TO ENTER INTO  
A DEVELOPMENT TAX INCENTIVE AGREEMENT  
AND FINDINGS OF FACT  
(Pursuant to ARIZ. REV. STAT. § 9-500.11)  
April 1, 2013**

**NOTICE**

Notice is hereby given by the Council of the City of Avondale, Arizona (the “City Council”) that, on a date that is not earlier than May 6, 2013, the City Council intends to adopt that certain retail development tax incentive agreement entitled “Economic Development Agreement Between the City of Avondale and GUNBO, LLC” (the “Agreement”).

**FINDINGS OF FACT**

With respect to the Agreement, and in accordance with ARIZ. REV. STAT. § 9-500.11, the City Council hereby makes the following findings of fact:

1. That the tax incentive set forth in the Agreement is anticipated to raise more revenue than the amount of the incentive within the duration of the Agreement. This finding has been independently verified in a report by Applied Economics, dated March 27, 2013, as set forth in Exhibit A, attached hereto and incorporated herein by reference.
2. That, in the absence of a tax incentive, the Main Event Entertainment, LP would not locate within the corporate boundaries of the City of Avondale at the same time or place as required by the Agreement.

**EXHIBIT A  
TO  
NOTICE OF INTENT TO ENTER INTO  
A DEVELOPMENT TAX INCENTIVE AGREEMENT  
AND FINDINGS OF FACT**

[Applied Economics verification]

See following pages.



March 27, 2013

Mr. Dan Davis  
Director of Economic Development  
City of Avondale  
11465 W. Civic Center Drive, Suite 210  
Avondale, AZ 85323

Dear Mr. Davis,

Applied Economics has been contracted by the City of Avondale to perform an independent third party review of the development agreement between the City of Avondale and Gunbo LLC. Gunbo LLC is proposing to develop a 58,000 square foot family entertainment center that would be operated by Main Event Entertainment, LP. The facility would include indoor recreation such as bowling, arcade games, laser tag and food and beverage service.

The development agreement includes provisions for a both a construction sales tax rebate and a retail sales tax rebate.

- The construction sales tax rebate would be equal to 50 percent of the 1.5 percent unrestricted sales tax generated by the construction of the facility and related infrastructure. The maximum reimbursement would be equal to the lesser of the cost of construction for public improvements, or a maximum of \$75,000.
- The retail sales tax rebate would be equal to 50 percent of the 1.5 percent unrestricted sales tax generated by taxable activities on the property. The maximum reimbursement would be equal to the lesser of the cost of construction for public improvements, or a maximum of \$225,000 over a period of up to four years.

The \$300,000 maximum reimbursement from unrestricted sales taxes is intended to cover the cost of specific infrastructure improvements to be completed by the developer and dedicated to the City as part of the development agreement. These would include various improvements to McDowell Road as well as signal improvements at the intersection of McDowell Road and 103<sup>rd</sup> Avenue. The total cost of public improvements to be completed by the developer is estimated at \$674,133. A.R.S. 42-6010 requires that sales tax incentives offered to retail businesses be provided only as reimbursement for public infrastructure dedicated to, and accepted and controlled upon completion of the project, by the city. All public improvements described above would meet these requirements and the cost of such improvements form the basis for the reimbursement amount.



Mr. Dan Davis

Page 2 of 2

Per A.R.S. 9-500.11, it is required that any tax incentives offered to retail businesses do not exceed the total amount of revenue to be generated to the city by the project. Based on the terms described in the development agreement and the projected sales at the facility, we believe that the project would generate a significantly greater flow of sales tax revenues than the total amount of the reimbursement.

In order to arrive at this conclusion we evaluated projected construction cost and taxable sales figures provided by Main Event based on the breakdown of square footage by type of use. These projections appear reasonable on a per square footage basis. Appropriate city sales tax rates were applied to estimate the annual and cumulative flow of revenues to the city and the developer during the term of the agreement.

The second component of A.R.S. 9-500.11 requires that this development would not have occurred in the same time, place or manner in the absence of a tax incentive. Based on our discussions with the developer, we believe that this type of development would not have occurred in the same place or manner without the incentive. Without the reimbursement from the city, the total cost of both on-site and off-site infrastructure improvements required to make this site usable for a family entertainment center would have exceeded the minimum return on investment required to obtain approval from Gunbo LLC's Board of Director's and the project would not have proceeded at this location.

In summary, based on a thorough review of the development agreement between the City of Avondale and Gunbo LLC, we believe that the agreement meets the requirements of both A.R.S. 9-500.11 and A.R.S. 42-6010. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Sarah E. Murley'.

Sarah E. Murley  
Partner

**Main Event Entertainment - Avondale**

	2013	2014	2015	2016	2017	2018
<b>Construction and Sales Estimates</b>						
Construction	\$5,850,000	\$0	\$0	\$0	\$0	\$0
Hard Cost	\$5,125,000	\$0	\$0	\$0	\$0	\$0
Soft Cost	\$725,000	\$0	\$0	\$0	\$0	\$0
Total Cost per square foot	\$100.86					
Taxable Sales	\$0	\$6,500,000	\$6,565,000	\$6,696,300	\$6,897,189	\$7,104,105
Sales per square foot of sales-generating space	\$0	\$159	\$161	\$164	\$169	\$174
<b>Total Sales Tax Revenues</b>						
Construction Sales Tax	\$95,063	\$0	\$0	\$0	\$0	\$0
Retail Sales Tax	\$0	\$162,500	\$164,125	\$167,408	\$172,430	\$177,603
<b>Sales Tax Revenues to Avondale</b>						
Annual Sales Tax	\$66,544	\$113,750	\$114,888	\$117,185	\$120,701	\$177,603
Cumulative	\$66,544	\$180,294	\$295,181	\$412,367	\$533,067	\$710,670
<b>Sales Tax Reimbursement to Main Event</b>						
Annual	\$28,519	\$48,750	\$49,238	\$50,222	\$51,729	\$0
Cumulative	\$28,519	\$77,269	\$126,506	\$176,729	\$228,457	\$228,457

Construction sales tax rebate not to exceed \$75,000.

Retail sales tax rebate not to exceed \$225,000 over four years.

<b>Square Footage by Type of Use</b>	
Bowling	16,869
Food and Beverage	8,753
Amusement Games	11,549
Laser Tag	3,692
Meeting and Party Rooms	4,000
Storage	2,762
Office	2,302
Open Circulation and Restrooms	8,101
Total Sales-Generating Space	40,863

**EXHIBIT C  
TO  
ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
GUNBO, LLC**

[Initial Site Plan]

See following pages.

**DEVELOPER**  
**MAIN EVENT ENTERTAINMENT**  
 6652 PINECREST DRIVE, SUITE 100  
 PLANO, TEXAS 75024  
 PHONE: (972) 406-2600  
 FAX: (972) 406-2650  
 CONTACT: WALTER LOVELL

**CIVIL ENGINEER**  
**HUNTER ENGINEERING, INC.**  
 10450 N. 74th STREET SUITE 200  
 SCOTTSDALE, ARIZONA 85258  
 PHONE: (480) 991-3985  
 FAX: (480) 991-3986  
 CONTACT: LARRY TALBOTT

**PHASE I SITE DATE FOR MAIN EVENT**  
 APN: 102-54-003A  
 EXISTING ZONING: PAD  
 NET AREA: 6.634 ACRES (288,961 SF)  
 BUILDING: 58,000 SQ. FT.  
 BUILDING HEIGHT: 32'-0"  
 TOP OF ARCH: 44'-0"  
 SINGLE STORY  
 BUILDING COVERAGE: 20%  
 LANDSCAPE COVERAGE: 19%

**PHASE I PARKING CALCULATIONS**

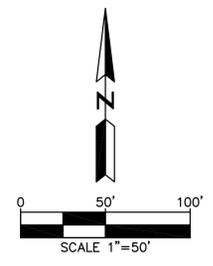
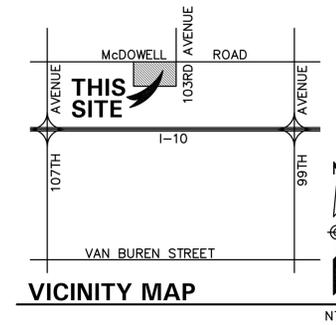
PARKING SUMMARY:	PROVIDED	REQUIRED
STANDARD STALLS	385	350
ADA STALLS	5	5
TOTAL	390	355

PARKING REQUIREMENT  
 INDOOR RECREATION = 1 SPACE/200 SQ.FT.  
 RESTAURANT = 1 SPACE/50 SQ.FT.

BUILDING TOTAL SQ.FT. = 58,000  
 INDOOR RECREATION AREA = 54,000 SQ.FT.  
 DINING AREA = 4,000 SQ.FT.

54,000 SQ.FT. / 200 SQ.FT. = 270 SPACES  
 4,000 SQ.FT. / 50 SQ.FT. = 80 SPACES  
 TOTAL = 350 SPACES REQUIRED

# CONCEPTUAL SITE PLAN FOR MAIN EVENT ENTERTAINMENT SWC MCDOWELL ROAD & 103RD AVENUE AVONDALE, ARIZONA



NO.	DATE	REVISION	BY

DESIGN BY: LMT  
 DRAWN BY: WJC  
 CHECKED BY: JMH

CIVIL AND SURVEY  
**HUNTER ENGINEERING**  
 10450 NORTH 74TH STREET, SUITE 200  
 SCOTTSDALE, AZ 85258  
 T 480 991 3985  
 F 480 991 3986

PRELIMINARY PLANS  
 NOT FOR CONSTRUCTION

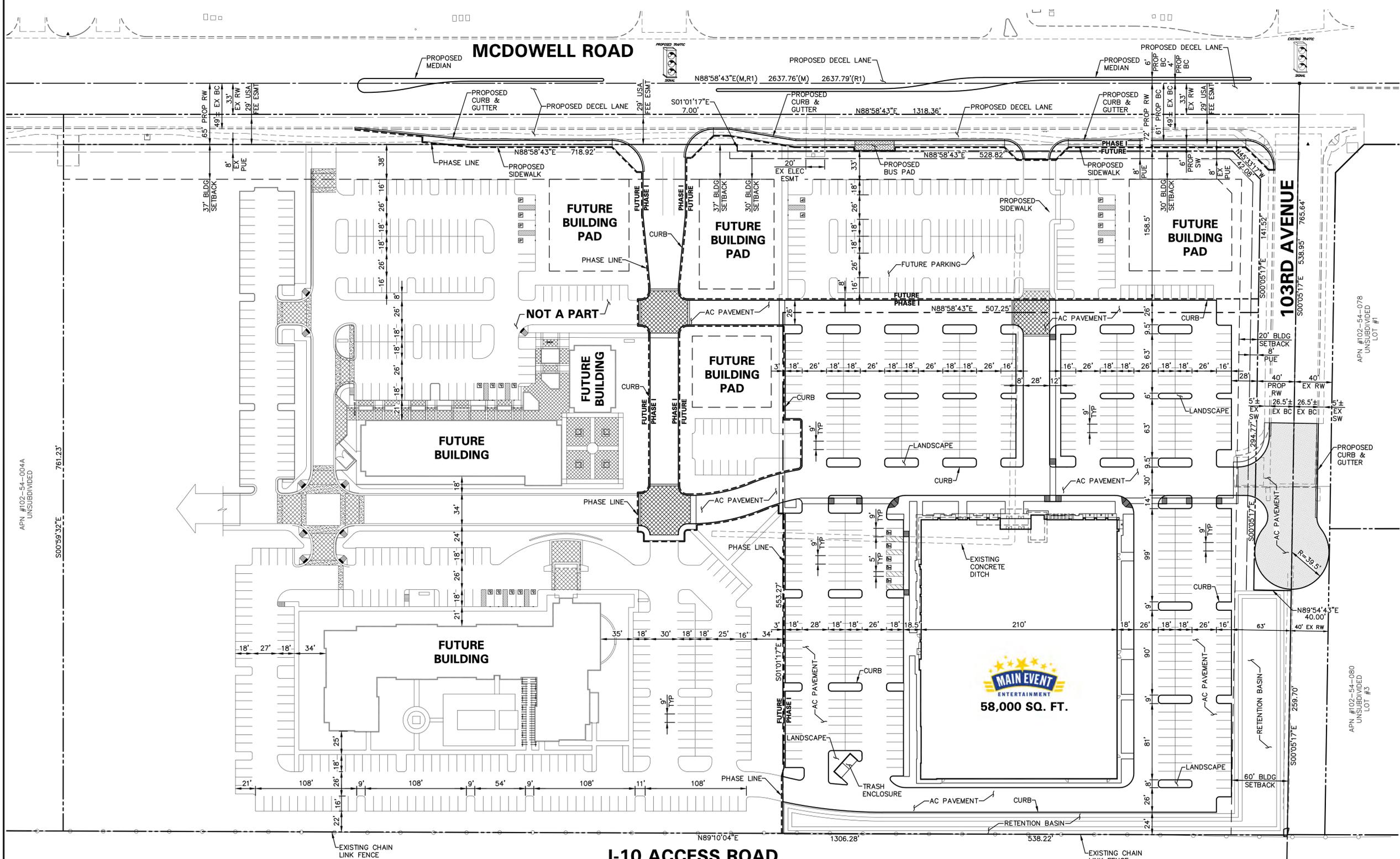
CONCEPTUAL SITE PLAN  
 FOR  
 MAIN EVENT ENTERTAINMENT  
 SWC MCDOWELL ROAD & 103RD AVENUE  
 AVONDALE, ARIZONA

THESE PLANS ARE NOT APPROVED FOR CONSTRUCTION WITHOUT AN APPROVED SIGNATURE FROM THE GOVERNING MUNICIPALITY.

HE JOB NO.: MAIN002

SCALE 1"=50'

SHEET C1



APN #102-54-004A  
 UNSUBDIVIDED  
 LOT #1

APN #102-54-078  
 UNSUBDIVIDED  
 LOT #1

APN #102-54-080  
 UNSUBDIVIDED  
 LOT #3

I-10 ACCESS ROAD

**EXHIBIT D  
TO  
ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
GUNBO, LLC**

[Initial Architectural Plan]

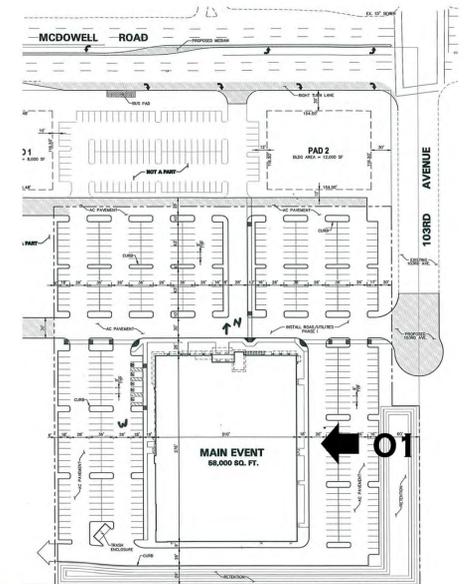
See following pages.



**01 EAST ELEVATION**

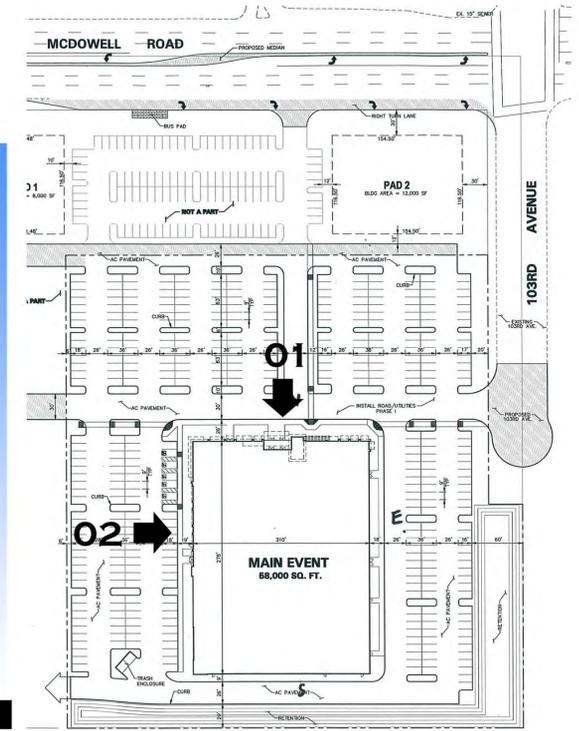


**02 SOUTH ELEVATION**

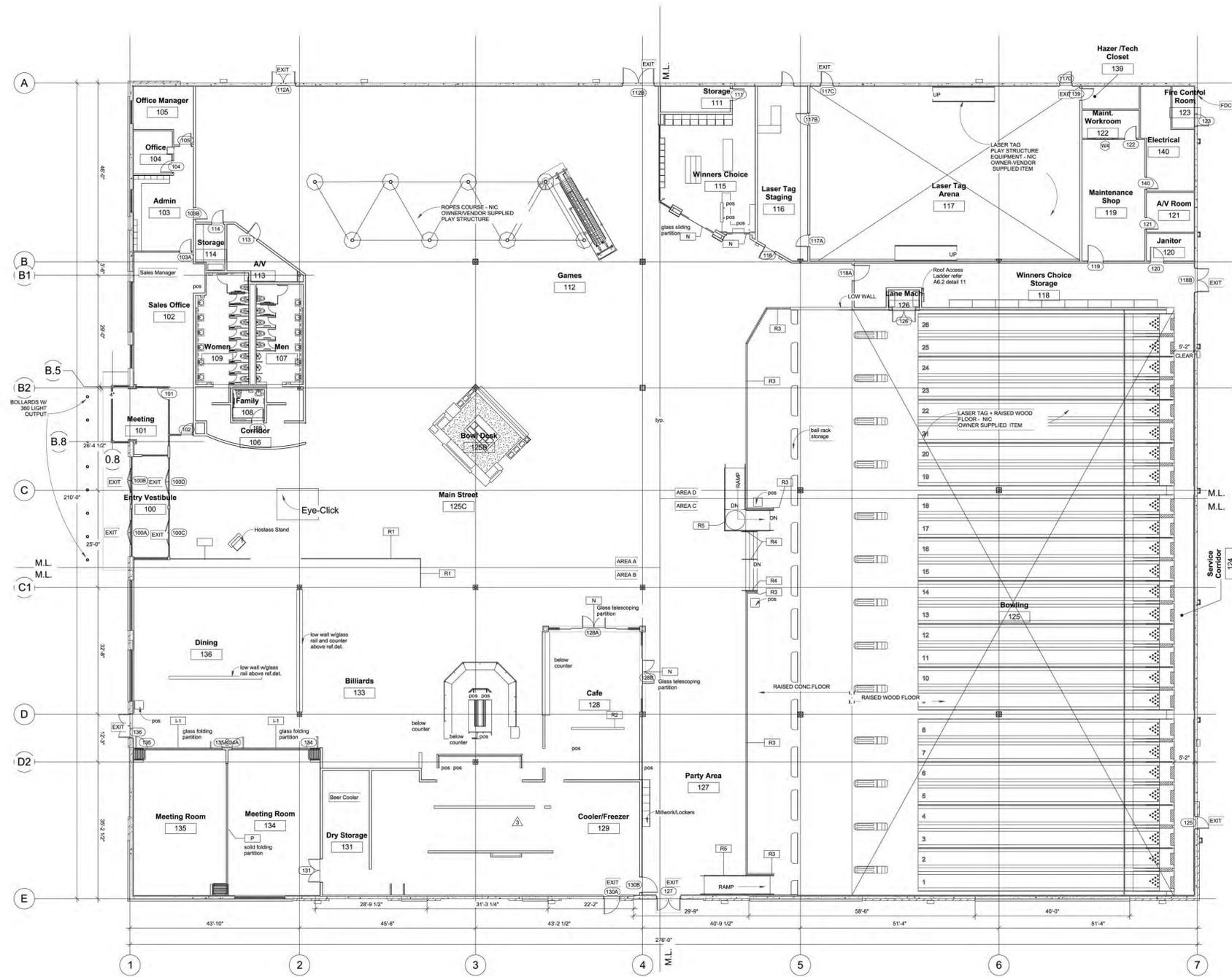




**01 NORTH ELEVATION**



**02 WEST ELEVATION**



**FLOOR PLAN**

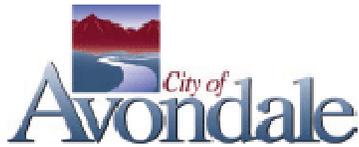


**MAIN EVENT AVONDALE, ARIZONA, FLOOR PLAN**

**PRELIMINARY**

12096-01, 04/23 /12013, YZ, FOR CITY SUBMITTAL





# CITY COUNCIL REPORT

**SUBJECT:**

Third Amendment - Construction Manager at Risk Agreement – FCI Constructors, Inc.

**MEETING DATE:**

May 6, 2013

**TO:** Mayor and Council

**FROM:** Charles Andrews, P.E., City Engineer, 623-333-4216

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve Amendment 3 to the Construction Manager at Risk (CMAR) with FCI Constructors, Inc. (FCI) to provide complete construction services for the completion of the Northwest Public Safety Facility in the amount of \$1,803,772, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The Northwest Public Safety Facility was designed in 2009 and constructed in 2010. Due to budget concerns, the Fire Department portion of the Project was completed as a shell only, with no interior or site improvements.

**DISCUSSION:**

In 2010, FCI provided complete construction services for the Northwest Public Safety Facility. The approved 2013-2014 Capital Improvement Program (CIP) includes funding for completion of the Fire Station in the Northwest Public Safety Facility. Amendment 3 to the CMAR Agreement will allow FCI to complete the construction services for the Fire Department buildout.

The work included in this project and within the Guaranteed Maximum Price (GMP) proposal includes:

- Pre-construction phase general services
- Complete construction services for the buildout of the Fire Department including a heavy grind of the concrete floor in the Administrative area and sealed concrete in the Apparatus bays, interior partitions and masonry walls, ceiling, insulation, interior finishes and millwork, plumbing, HVAC, electrical, communications systems and roof-mounted equipment.
- Completion of the shared fitness facility
- Completion of the furniture, fixtures and equipment (FF&E)

FCI will act as the general contractor during the construction of the project and will prequalify and procure all of the construction trade contractors that will perform the work.

**SCHEDULE:**

The tentative schedule for construction is as follows:

Construction Manager at Risk:  
Notice-to-Proceed - June 2013  
Begin Construction - July 2013

Final Completion - December 2013

**BUDGETARY IMPACT:**

Funding for this project is available in CIP Fund Line Item 319-1225, Northwest Public Safety Facility Fire Station in FY13-14.

**RECOMMENDATION:**

Staff recommends that the City Council approve Amendment 3 to the Construction Manager at Risk with FCI Constructors, Inc. (FCI) to provide complete construction services for the completion of the Northwest Public Safety Facility in the amount of \$1,803,772, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

[Third Amendment to CMAR - FCI](#)

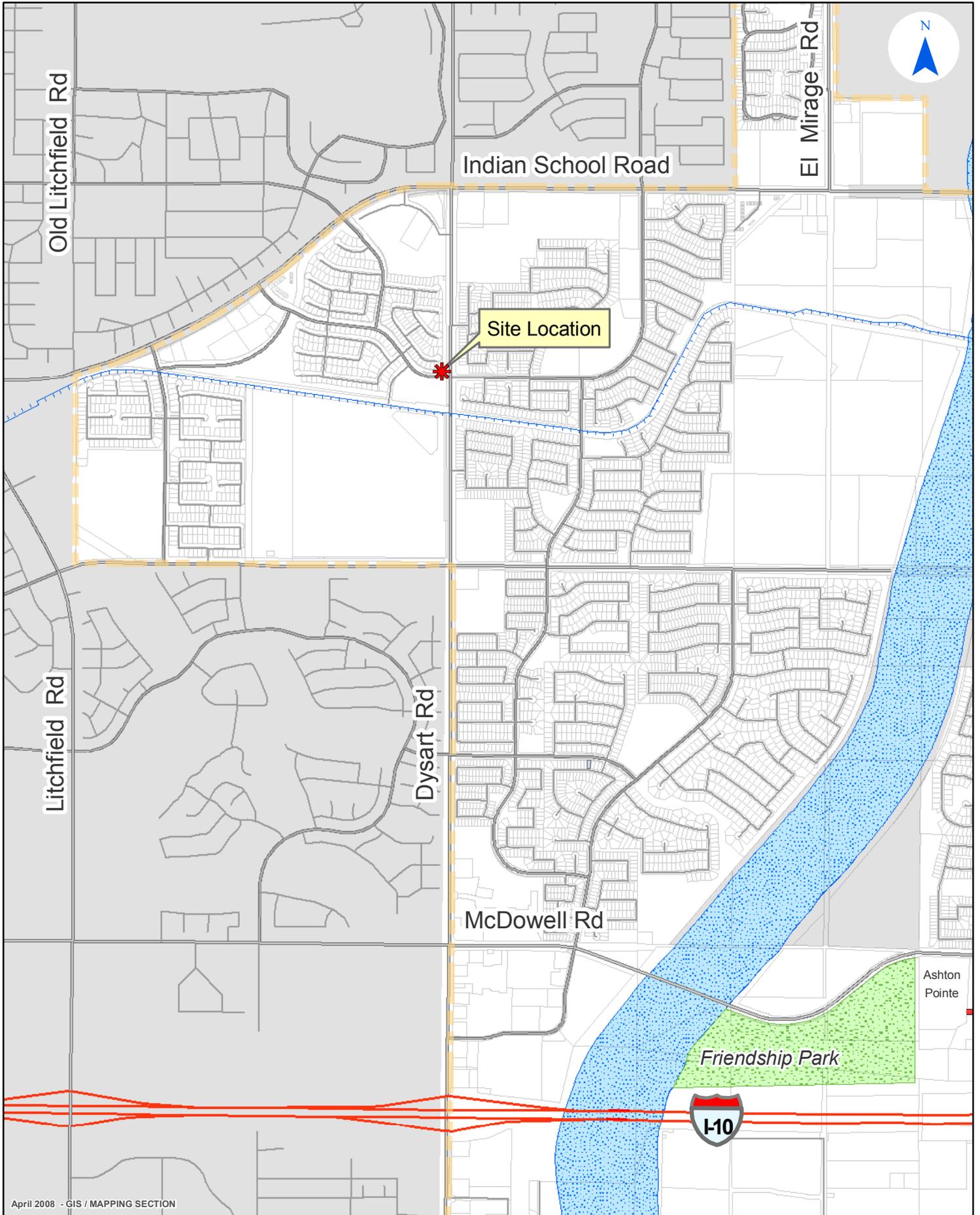
[Vicinity Map](#)

DUE TO ITS SIZE, THIS DOCUMENT  
HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

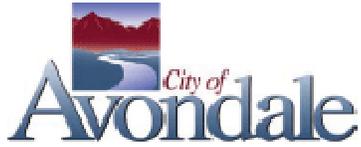
<http://www.avondale.org/DocumentCenter/View/32122>

# VICINITY MAP



April 2008 - GIS / MAPPING SECTION

## CITY OF AVONDALE Northwest Public Safety Facility



# CITY COUNCIL REPORT

**SUBJECT:**  
EXECUTIVE SESSION

**MEETING DATE:**  
May 6, 2013

**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 (i) 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 negotiations for (a) a potential Lease Agreement and (b) a potential Economic Development Agreement for City Center property and (ii) pursuant to Ariz. Rev. Stat. § 38-431.03 (A) (7) for discussion or consultation with City representatives in order to consider its position and instruct its representatives regarding negotiations for the acquisition of real property for public use.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available