CITY COUNCIL AGENDA

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

WORK SESSION
October 21, 2013
6:30 PM

CALL TO ORDER BY MAYOR ROGERS

1 ROLL CALL BY THE CITY CLERK

2 PROPOSED MUNICIPAL SPONSORSHIP AND NAMING RIGHTS POLICY

City Council will receive information regarding a proposed Municipal Sponsorship and Naming Rights Policy for City events, partnerships, sponsorships, marketing arrangements and naming rights. This item is for information and discussion only.

3 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:
Proposed Municipal Sponsorship and Naming Rights Policy

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Andrew McGuire, City Attorney (602) 257-7664

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff will present information regarding the adoption of a Municipal Sponsorship and Naming Rights Policy for City events, partnerships, sponsorships, marketing arrangements and naming rights. This item is for information and discussion only. No action is required.

DISCUSSION:

The City is involved in activities that result in the City's use of event sponsors, partnerships, in-kind contributions, naming rights and other forms of monetary and non-monetary support. Staff has identified the need for a sponsorship policy that governs all City departments and establishes consistent procedures and practices for the receipt or solicitation of, selection of, and agreements with, persons or entities for City sponsorships, co-sponsorships, sole sponsorships and marketing arrangements.

BUDGETARY IMPACT:

There is no budgetary impact at this time.

RECOMMENDATION:

This item is presented for information, discussion and Council direction.

ATTACHMENTS:

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- [Draft Policy]

CITY OF AVONDALE
MUNICIPAL SPONSORSHIP AND NAMING RIGHTS POLICY

1. Purpose. To establish for the City of Avondale, Arizona (the "City") a formal procedure and criteria for the receipt or solicitation of, selection of, and agreements with, persons or entities for Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships and Marketing Arrangements (including Facility Naming Rights), the following Municipal Sponsorships and Naming Rights Policy (this "Policy") is hereby adopted by the Mayor and Council of the City (the "City Council"). This Policy is intended to set forth the process for the City to participate in Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement programs to give valuable support to important City programs, facilities and services for public benefit by (i) providing funding for City events from private businesses and (ii) allowing the City to partner with activities provided by outside entities. In doing so, the City must ensure its actions are consistent and appropriate to the City's vision, mission and values. This Policy is not intended to apply to Bequests or Donations (each as defined below). This Policy shall:

A. Establish Procedures. Establish consistent procedures and practices for receipt or solicitation of Municipal Sponsorships (as defined below), Co-Sponsorships (as defined below), Sole Sponsorships (as defined below) and Marketing Arrangements (as defined below) by City staff.

B. Encourage Sponsorships. Encourage solicitation of Municipal Sponsorship opportunities such as Facility Naming Rights, Sole Sponsorships, Co-Sponsorships Marketing Arrangements and similar agreements that generate revenue (financial or in-kind) in support of existing and new City facilities, projects, programs or services.

C. Encourage Partnerships. Develop public/private alliances to provide programs, events, venues and services within the City.

D. Encourage Staff Innovation. Empower City departments to seek Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement opportunities to provide funds for programs, events, venues or services they might not otherwise be able to provide to City residents and visitors.

E. Safeguard City Interests and Goals. Ensure that Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement activities (1) safeguard the City's assets and interests, (2) support the City's goals of service to the community and (3) remain responsive to the public's needs and values.

F. Establish Naming Framework. Provide a framework within which requests to name public facilities are considered and evaluated.

2. Scope. This Policy shall govern all City departments regarding the solicitation of, and the unsolicited offers/requests from third parties related to, Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships and Marketing Arrangements for City programs, projects, events, venues, facilities and services. Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement solicitations shall be in furtherance of the City's needs

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and conducted in accordance with the provisions in this Policy. All City staff responsible for, or otherwise involved in, Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement activities on behalf of the City or their respective departments shall adhere to the policies, procedures and guidelines set forth herein. Department Directors are responsible for ensuring staff compliance with this Policy.

A. Third Party Solicitation. Subject to the conditions of this Policy, City staff may solicit or respond to solicitations from third parties for such Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships or Marketing Arrangements for the City.

B. Fair Compensation. At all times, recognition for Municipal Sponsorships or Marketing Arrangements must be evaluated to ensure the City is receiving fair and competitive compensation and that such recognition is consistent with the scale of each Sponsor or Marketing Arrangement's contribution.

C. Outside the Scope of this Policy. This Policy shall not apply to:

(1) Funding obtained through formal grant programs or through intergovernmental agreements with other political subdivisions of the State.

(2) City support of external projects where the City provides funds to an outside organization (examples include, but are not limited to, grants to Nonprofit Organizations).

(3) Gifts, Bequests, or unsolicited Donations to a City department or the City where no reciprocal commercial benefit is given or expected and no business relationship exists.

3. Definitions.

Bequest. A gift or contribution of cash, goods or services given voluntarily and expressed in writing through a will or other testamentary document.

Co-Sponsorship. Participation by the City (via direct funding, waived fees, staff coordination or technical assistance) in an event that is provided by an outside entity and that is closely aligned with or furthers a core City program or service.

Donation. A gift or contribution of cash, goods or services given voluntarily toward an event, project, program or corporate asset where no reciprocal commercial benefit is given or expected. If reciprocal commercial benefits are given or a business relationship exists with a corporate donor, the contribution will be a Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement, as applicable, and the principles of this Policy will apply.

Facility Naming Rights. The naming of City-owned and/or operated buildings, structures, natural features and recreational facilities, whether in whole or portions thereof (hereafter referred to individually as a "Facility" or collectively as "Facilities"), and streets, roads or any public rights-of-way (hereafter referred to individually as a "Street" or collectively as the

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"Streets") within the corporate limits of the City. Portions of a Facility may have names other than that of the entire Facility and features may be dedicated to or in honor of a person such as "Smith Beach" or "Jones' Amphitheater," subject to the provisions of this Policy.

In-Kind Contribution. A contribution received in the form of goods and/or services rather than cash as part of a Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement.

Marketing Arrangement. A mutually beneficial business arrangement between the City and a third party, wherein the third party provides cash and/or in-kind services to the City in return for access to the commercial marketing potential associated with the City, including, but not limited to, the installation of bus shelters containing advertisements. Marketing Arrangements may include Municipal Sponsorship or Sole Sponsorship of one or more of the City's programs, projects, events, Facilities or activities.

Municipal Sponsorship. A business relationship in which the City and another entity exchange things of value, including a public display of support. This value can be financial, in-kind or benefits related to visibility/exposures, publicity or market reach. It should not be confused with Donations (as defined above), the sale of advertising or innovative approaches to purchasing goods or services. Municipal Sponsorships include funds, products or services provided by a company or individual to the City, in consideration of the opportunity for the company or individual to promote its name, product or service in conjunction with a City program, project, event, venue or activity.

Nonprofit Organizations. Organizations designated under the Federal Tax Code as 501(c)(3).

Sister Agency. Local government entities that are traditional partners with the City.

Request for Proposals ("RFP"). An open and competitive process whereby the City invites companies, subsidiaries or individuals to express their interest in participating, and submit proposals to participate, in Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement opportunities with the City.

Sole Sponsorship. A business relationship in which a company, subsidiary or individual has paid to be the only Sponsor of a City program, project, event, venue or activity.

Sponsor. A company or individual that provides the City with a Municipal Sponsorship and that enters into a Municipal Sponsorship agreement with the City to promote itself and/or its products or services.

Standards of Responsibility. The requisite standards to enter into a Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement with the City. Factors to be considered in determining whether the standards have been met include, but are not limited to, whether a prospective sponsor: (i) has available (or the ability to obtain) the appropriate financial, material, equipment, facility, personnel resources and expertise necessary to indicate its capability to meet all contractual requirements; (ii) is able to comply with required or proposed delivery or performance scheduling; (iii) has a satisfactory record of performance; (iv)

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has a satisfactory record of integrity and business ethics; and (v) is qualified legally to contract with the City.

4. Restrictions. In general, the following industries and products are not eligible for Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships or Marketing Arrangements, including Facility Naming Rights, with the City, but the City may elect to enter into Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships or Marketing Arrangements with these restricted industries or products when it is deemed appropriate by the City Council acting in its sole discretion.

A. Prohibited or Restricted Products. A company, subsidiary and association with products or services that are prohibited or restricted by City Code or other governing laws and policies.

B. Adult Products. A company or subsidiary whose business is substantially derived from the sale or manufacture of tobacco products, products prohibited under federal law or sexual/adult-oriented products.

C. Alcohol Sponsor at Youth-Related Events. Alcoholic beverages when the intended audience of or participants in the Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement are youth under the legal drinking age.

D. Parties not Deemed Responsible. Parties that are not deemed responsible under the Standards of Responsibility.

E. Parties to Litigation. Parties involved in a lawsuit with the City.

F. Separate Contracts. Parties involved in any stage of negotiations for a City contract unless the contract is directly linked to a Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement or Facility Naming Rights opportunity.

G. Conflicts of Interest. Individuals or commercial enterprises having past, present, or pending business agreements or associations with the City, if a Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement Agreement would create an appearance of impropriety.

H. Pending Land-Use Approval. Parties with an active case for any land-use approval before the City.

I. Religious or Political Entities. Religious or political associations or candidates running for any political office.

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5. Roles and Responsibilities.

A. Responsibilities of City Departments.

(1) Initiating City Department. The initiating City department shall (a) ensure adherence to the principles and guidelines outlined in this Policy, (b) prepare a proposal setting forth the scope of the program or project as provided in Subsection 6(A) below and (c) work with City Finance and Budget Department to ensure appropriate budgeting of revenues and expenditures and with the City Attorney's Office to ensure the integrity of the procurement process and the legal sufficiency of contractual obligations.

(2) Finance and Budget. The Finance and Budget Department shall provide general guidance, cost/benefit analysis, and direction relating to the appropriate budgeting of revenues and expenditures in a manner that maximizes the benefits of each Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement or Facility Naming Rights arrangement for the initiating City department, the City and the Sponsor.

(3) Procurement. When applicable, the Procurement Office of the Finance and Budget Department (the "Procurement Office") shall oversee the preparation of the RFP or other competitive solicitation for Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement and Facility Naming Rights opportunities.

(4) City Attorney. The City Attorney's Office shall provide legal review of any RFP or other competitive solicitation for Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement and Facility Naming Rights opportunities and oversee the preparation of all Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement and Facility Naming Rights agreements.

(5) City Manager. The City Manager shall review all Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement activities, including interim reports provided from time to time by City departments. The City Manager also shall be responsible for determining the frequency of reports by City departments.

6. Procedures. The City's participation in Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement and/or Facility Naming Rights activities shall be according to the procedures set forth below. For Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships, Marketing Arrangements and/or Facility Naming Rights arrangements with a governmental agency or an organization that is performing a governmental or quasi-governmental function, only the procedures within subsections 6(B), (D), (E), (F) and (G) shall apply.

A. Prepare a Proposal. A City department considering a potential Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement or Facility Naming Rights arrangement shall prepare a proposal setting forth the scope of the program or project, including a description of the community benefit, financial goals, means of recognition, potential

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interested Sponsors, and general marketing strategy if a Marketing Arrangement is involved. The proposal shall be submitted to the Department Director for review and approval. If Facility Naming Rights are involved and will result in a name change to an existing Facility, (1) the history and legacy of the current municipal Facility should be considered and/or incorporated within the new proposed name and (2) for a Facility other than a Street, the Parks and Recreation Advisory Board should provide input in accordance with the Community Recreation Services Naming of Parks, Recreation and Cultural Facilities Policy. All Facility or Street naming shall be in accordance with the additional procedures set forth in Sections 8 and 9 below.

B. Estimate Value. The value of opportunities for Municipal Sponsorship, Sole Sponsorship or Marketing Arrangement includes both tangible and intangible benefits. If the proposed Municipal Sponsorship or Marketing Arrangement includes Facility Naming Rights or granting Sole Sponsorship, the Department Director shall provide a reasonable basis for determining the value of the Municipal Sponsorship, Marketing Arrangement or Facility Naming Rights opportunity. At the City Manager's discretion, a qualified third party may be used to establish value.

C. Develop and Implement Solicitation. The applicable City department, working with the Procurement Office and the City Attorney, shall develop an RFP for each Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement opportunity that is exclusive and valued greater than $50,000 annually and all Facility Naming Rights opportunities and the most beneficial, qualified response shall be submitted to City Council with a recommendation for approval. Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangements valued at $50,000 annually or below and revenue producing or "no-cost" Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement opportunities that involve the provision of commodities or services provided either to the City or the Avondale community in support of City operations, functions or programs through which the provider will benefit monetarily, must be awarded using a competitive process that is appropriate to the value, complexity and profile of the business opportunity. Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement proposals forwarded to the City are not subject to competitive solicitations if the proposed Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement or Facility Naming Rights opportunity is determined through a good faith effort to be unique and without interested competitors.

D. Evaluate Submissions. The Procurement Office, in conjunction with the applicable City department, shall review and analyze all responsive submittals received and shall provide a recommendation of approval or denial to the City Manager according to the standards set forth in the City's Procurement Code, Procurement Policy and Procurement Procedures Manual. The submittals shall be reviewed against selection criteria that may include, but are not limited to:

(1) Consistency of the prospective entity's products, customers and promotional goals with the City's character, values and service priorities, including the most recently adopted City Council goals.

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(2) The ability for the City to retain its identity as owner/operator of the Facility or principal provider of the service.

(3) The prospective entity's historical participation and association with community projects, events and continued willingness to participate.

(4) The operating and maintenance costs to the City associated with the proposed sponsorship.

(5) Anticipated public perception of the association with the City and the prospective entity and community support for, or objection to, the prospective entity.

(6) The prospective entity's regard for and demonstrated success in valuing diversity.

(7) The prospective entity's regard for and demonstrated success in environmental stewardship.

E. Develop Agreement. In the event a Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement or Facility Naming Rights proposal is recommended for approval, the Department Director or City staff designated by the Department Director will work with the City Attorney's Office and the Procurement Office to prepare an agreement consistent with all applicable City Codes, policies and ordinances. The agreement shall contain a provision granting the City with the right to suspend or terminate the Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship, Marketing Arrangement or Facility Naming Rights agreement if, in the sole discretion of the City Manager or the City Council (whichever approved the agreement), the continued arrangement would no longer satisfy the selection criteria by which the arrangement was initially approved.

F. Manager Review; Council Approval. The City Manager shall review all Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship and Marketing Arrangement proposals and shall submit all Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement Agreements with an aggregate value greater than $50,000 annually and all agreements involving Facility Naming Rights to the City Council for final approval. Municipal Sponsorship, Co-Sponsorship, Sole Sponsorship or Marketing Arrangement Agreements with an aggregate value to the City of $50,000 or less annually may be approved by the City Manager. Notwithstanding the foregoing, any City purchase exceeding an aggregate value of $50,000 must be authorized by the City Council.

G. Record Financial Transaction. In the event a Municipal Sponsorship is received as an "in-kind" donation of goods or services, the Finance and Budget Department shall create and retain a record of that donation and any associated revenue or expense to the City to document the financial transaction to the City.

7. Co-Sponsorship Requests. The City actively supports the efforts of other governmental agencies and Sister Agencies whose events are (i) held in City parks and Facilities and (ii) further City core program goals and services. Such support may include fee waivers,

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reduced fees, reduced rental charges and co-sponsorship. All permit fee waivers and reductions, reduced Facility rentals and Co-Sponsorship agreements must comply with the guidelines and procedures set forth below.

A. Fees. The City charges everyone a fee to permit and have priority use of any park, amenity, stage or recreation Facility. This fee is to cover extra operational expenses associated with the use or event and to guarantee the space for the permittee. Fees are based upon the purpose and size of the event. Additional fees are charged as a damage deposit. The City, however, may further reduce or waive an outside organization's permit or rental fees for an event on City property, as determined by the City Manager or designee, that (a) has close association with the City's core program goals and services and (b) provides the City with positive marketing exposure.

B. Requests for Co-Sponsorships from Non-Governmental Entities. Prior Council approval may be required for Co-Sponsorship requests from non-governmental entities that involve the use of City resources, including, but not limited to, financial assistance, in-kind assistance and supplies. Such requests will be considered through the City Clerk's Department Special Event Application process.

C. Requests for Co-Sponsorships from Other Governments and Sister Agencies.

(1) If another governmental entity or Sister Agency is only a supporting sponsor for another outside organization, that other outside organization still must apply for City co-sponsorship.

(2) If another governmental entity or Sister Agency is the primary organizer for a public program or event, generally the City will grant a request to be a co-sponsor. Like sponsorship of outside organizations, the governmental entity or Sister Agency still is responsible for all other costs associated with the program or event.

(3) The governmental entity or Sister Agency holding the program or event must clearly acknowledge the City as a co-sponsor on all written materials associated with the event, subject to the City's prior, written approval of any use of the City logo or trademarks.

8. Facility Naming General Policies.

A. Recommendations to Other Bodies. This Policy should be followed in reviewing or preparing the City's official comments or recommendations to State, Federal, and/or intergovernmental boards taking actions regarding geographic names, naming or renaming of Facilities or Streets.

B. City Council Consideration. The Mayor, three members of the City Council, or the City Manager may request the naming or renaming of a Facility or a Street. Thereafter, the City Council shall discuss the requested renaming at a public meeting.

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C. Bond-Financed Facilities or Streets. If a bond-financed Facility or Street is proposed or requested to be named or renamed, bond counsel must review and approve the request or proposal before consideration at a City Council meeting.

D. Parks, Recreation and Cultural Facilities. The naming of all Parks, Recreation and Cultural Facilities also shall comply with the Community Recreation Services Naming of Parks, Recreation and Cultural Facilities Policy, which is attached hereto as Exhibit A and incorporated herein by reference. In the event of any inconsistency, conflict or ambiguity among the terms of this Policy and the Community Recreation Services Naming of Parks, Recreation and Cultural Facilities Policy, this Policy shall govern.

E. Public Notice. The City Council shall provide appropriate public notice of any Street or Facility naming actions in conjunction with other agenda items for regularly-scheduled meetings.

F. Changes to Approved Names. Once a name has been officially approved by the City Council, changes should be strongly resisted.

G. City Council Discretion. In all cases, the City Council reserves the right to accept or reject any proposal to name or rename a Street or Facility, in its sole discretion.

H. City Manager Duties. The City Manager, upon approval of the naming or renaming action by the City Council, shall implement names or name changes of Facilities or Streets. The City Manager shall notify those who have submitted the suggestion as well as other appropriate offices and agencies. Upon City Council denial of a name or name change, the City Manager shall notify those who requested the name change.

9. Facility Naming Criteria.

A. For Facilities and Streets Generally. Recognizing that the naming or renaming of a Facility or Street should be approached cautiously with forethought and deliberation, the following criteria are hereby established:

(1) To avoid duplication, confusing similarity or inappropriateness, the City Council, in considering name suggestions, shall review existing Facility and/or Street names, as applicable.

(2) In naming Facilities and Streets, consideration shall be given to geographic location, historical or cultural significance and natural or geological features. In the construction of a Facility, the address designation shall be used until the formal naming of the Facility. Whenever possible, naming shall be made prior to the completion of construction of a Facility or Street.

(3) Facilities and Streets may be named only for a deceased individual or individuals if (i) the individual or individuals has/have enhanced the quality of life within the City and (ii) two years or more has elapsed between the consideration for naming and the time of death of the individual or, in the case of related individuals, two

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years after the death of one of the individuals. The deceased individual shall have performed outstanding service in one or more of the following categories:

(a) Maintained involvement in a leadership role in civic organizations that are devoted to community improvement.

(b) Provided assistance to the underprivileged, economically disadvantaged or physically and/or mentally handicapped.

(c) Actively promoted and directed community events and activities that have clearly added to the enrichment of the quality and quantity of cultural life within the community.

(d) Actively promoted and implemented effective programs and activities within the community for the City's youth.

(e) Actively promoted and implemented effective programs and activities within the community for the City's senior citizens.

(f) Assumed an active leadership role in developing and implementing programs directed to the improvement of the visual aesthetic appearance of the community at the commercial, public or residential level.

(g) Assumed an active leadership role in developing programs and Facilities directed toward the improvement of community social and health needs as well as programs directed toward humanitarian purposes.

B. Additional Criteria Applicable to Streets. In considering the renaming or naming of a Street, the City Council shall consider the following:

(1) Street names, plats, specific sites and places and natural features indicated on general usage maps for 50 years or more (age criteria applied by the National Register of Historic Places) should be changed only under exceptional circumstances. Street names shall not be similar in spelling or pronunciation to a presently-existing major collector or arterial road in the Phoenix Metropolitan area. No Street shall be named by number only according to the street numbering grid (i.e. 150th Street) unless the Street follows a straight north-south alignment.

(2) Attention should be paid to maintaining sequential, numerical and alphabetical naming patterns when considering any Street name changes or additions. All Streets shall be named and numbered consistently with the County-wide street numbering system and no such name or change of name shall take effect until (a) the affected public safety agencies have been notified and (b) all impacted public safety dispatch maps have been amended. Any extensions of presently-existing Streets within or into the City shall bear the same name as the existing roadway. No Street name shall contain a homonym.

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(3) New Streets shall be named according to the following guidelines:

(a) In most cases, the Street name will be proposed by the property owner, reviewed by the City staff and approved by the City Council as part of its consideration of a final plat for a development within the City.

(b) If an unnamed private Street is dedicated to the City, the name may be suggested by the property owners thereon, but the City Council shall make the final determination.

(4) No Street shall be renamed unless:

(a) The new Street name is not one already well-known in the Phoenix metropolitan area (except for new connections to existing Streets).

(b) There are no (or very few) buildings or other addressed Facilities presently existing along the Street.

(c) The new Street name will not be confused with other existing Streets in the City.

(d) The new Street name shall not be the same as a specific living person within the Phoenix Metropolitan area.

C. Historical Reference. Changes of names for Facilities or Streets should be approved only when they do not violate historical or common usage names. Facilities and Streets may be named after research reveals that the area around the Facility or Street has been commonly, yet unofficially, named by the residents in the area.

D. Donor Naming. Facilities and Streets may be permanently named for an individual (alive or deceased), organization, or business if that individual, organization, or business has made a donation of money, land or other goods and/or services to the City equal to at least half the full cost of the Facility or Street, either for purposes of developing a particular Facility or Street or for the City's Capital Fund. Such arrangements will be called "Permanent Naming." Permanent Naming proposals that are not in accordance with Section 4 of this Policy shall not be considered.

10. Advertisements or Promotional Materials. The City reserves the right to review and approve or disapprove of any advertisement or promotional material associated with Municipal Sponsorships, Co-Sponsorships, Sole Sponsorships and Marketing Arrangements. Such advertising or promotional materials may not be displayed or approved if it: (i) is false, misleading or deceptive; (ii) relates to an illegal activity or refers to or connotes any illicit use of drugs or drug-related paraphernalia; (iii) refers to or connotes any sexual or excretory function or contains explicit sexual material, obscene material or material harmful to minors as that term is described in Title 13, Chapter 35, Arizona Revised Statutes; (iv) depicts violence or anti-social behavior; (v) subjects individuals or groups of people to public ridicule, derision or embarrassment or contains any racially or ethnically derogatory material, statements or images;

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(vi) includes language that is obscene, vulgar, profane or scatological; (vii) advertises tobacco products; (viii) uses linguistics, numbers, phonetics, foreign translations or upside down or reverse readings to achieve a reference or connotation prohibited in this Section; or (ix) fails to comply with all applicable sign regulations.

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EXHIBIT A
TO
CITY OF AVONDALE
MUNICIPAL SPONSORSHIP AND NAMING RIGHTS POLICY

[Community Recreation Services Naming of Parks, Recreation and Cultural Facilities Policy]

See following page.

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COMMUNITY RECREATION SERVICES
NAMING OF PARKS, RECREATION AND CULTURAL FACILITIES
POLICY

PROCEDURE:

1. The naming of all Parks, Recreation, and Cultural Facilities shall be coordinated and reviewed by the Parks and Recreation Advisory Board, who shall forward their recommendation to the City Council for approval.

2. Parks, Recreation, and Cultural Facilities may be named to describe the facility and/or geographical areas where they are located. A recognized name within a specific community is an acceptable means of identifying Parks, Recreation, and Cultural Facilities.

3. The use of commercial names shall not be used, unless a significant financial and/or land contribution is made to the City of Avondale.

4. Parks, Recreation, and Cultural Facilities may be named after something that is specifically unique to the City of Avondale, the Phoenix Valley or the Southwest. (i.e. desert flora and fauna, Native American and/or Hispanic descriptive terminology).

5. Parks, Recreation, and Cultural Facilities may be named after an organization or individual if one of the following criteria is met:

   a. If the property on which the facility is donated.
   b. If a significant financial contribution is made toward the development of the property or facility.
   c. If the organization or individual is acknowledged by the general public as a local or national hero.

6. Existing Parks, Recreation, and Cultural Facilities names may be changed, if properly justified and in compliance with the approved policy. Any facility name changes may be considered after a Public Hearing is conducted.

7. Parks, Recreation, and Cultural Facilities should be named prior to development to provide early identification.

8. The naming of parks, recreation, and cultural facilities should be done in conjunction with the community and/or neighborhood that it will serve. This may be accomplished through various means, as determined by staff, and may include contests, recommendations made by community organizations, and individuals.

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CITY COUNCIL AGENDA

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

REGULAR MEETING
October 21, 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 CITY MANAGER'S REPORT

a. New Employee Introduction - Ashley Piper, Resource Center Coordinator

b. New Employee Introduction - Donna Gardner, Community Health Liaison

3 RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. Resolution 3143-1013 - Honoring Sergeant Geoffrey Heard on occasion of his retirement

b. Resolution 3144-1013 - Honoring Officer Jeffery Williams on occasion of his retirement

4 UNSCHEDULED PUBLIC APPEARANCES

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

5 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 October 7, 2013
2. Regular Meeting of October 7, 2013

b. CONTRACT AWARD - INVADER PEST MANAGEMENT
City Council will consider a request to award a contract to Invader Pest Management to provide exterminating services for city facilities in the amount not to exceed $46,000 annually or $230,000 over a contract term of five (5) years and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents. The Council will take appropriate action.

c. JOINT FACILITY USE AGREEMENT – THE WEST VALLEY ARTS COUNCIL
City Council will consider a request to approve a Joint Facility Use Agreement with the West Valley Arts Council to use the City Hall Lobby and the Civic Center Library Art Gallery to display public art, provide an amount not to exceed $2,000 per year for the maintenance and insurance of the program, and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents. The Council will take appropriate action.

d. PROFESSIONAL SERVICES AGREEMENT – SPEEDIE & ASSOCIATES, INC.
City Council will consider a request to approve a Professional Services Agreement with Speedie & Associates, Inc. to provide geotechnical and environmental services in the amount of $50,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. PROFESSIONAL SERVICES AGREEMENT – WESTERN TECHNOLOGIES, INC. – GEOTECHNICAL AND ENVIRONMENTAL SERVICES
City Council will consider a request to approve a Professional Services Agreement with Western Technologies, Inc. to provide geotechnical and environmental services in the amount of $50,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT – LOGAN SIMPSON DESIGN, INC.
City Council will consider a request to approve the first amendment to the Professional Services Agreement with Logan Simpson Design, Inc. to develop the construction documents and provide post design services for the Friendship Park renovation project in the amount not to exceed $79,432 for the amended scope or $151,243 for the entire renovation design project; and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents. The Council will take appropriate action.

g. FIFTH AMENDMENT TO SOFTWARE SUPPORT AGREEMENT - INFOR GLOBAL SOLUTIONS (MICHIGAN), INC.
City Council will consider a request to approve the fifth amendment to the Software Support Agreement with Infor Global Solutions (Michigan), Inc., valued at up to $243,000 over five years, to extend maintenance and support services for the software used to administer the Public Works Department's asset management program and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

h. RESOLUTION 3140-1013 – FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT WITH ADOT
City Council will consider a resolution authorizing the First Amendment to the Intergovernmental Agreement with the Arizona Department of Transportation for the administration of the design and scoping of the Agua Fria Multi-Use Path project, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

i. RESOLUTION 3145-1013 AND ORDINANCE 1529-1013 - AVONDALE CITY CODE CHAPTER 5, ARTICLE II JUDICIAL ADVISORY BOARD
Council will consider a resolution declaring as a public record the "City of Avondale Judicial Advisory Board Ordinance, October 13, 2013" and an ordinance adopting the same to establish the Judicial Advisory Board to evaluate applicants and make recommendations to Council for the appointment of a City Judge. The Council will take the appropriate action.

6 ORDINANCE 1528-1013 - AMENDING THE CITY CODE TO ESTABLISH A LIQUOR IN THE PARK PERMIT AND RESOLUTION 3141-1013 - SETTING THE FEE FOR THE PERMIT

City Council will consider an ordinance to amend Chapter 17, Article II of the Avondale Municipal Code to establish a new alcohol permit to allow the possession and consumption of alcohol within specific areas of Friendship Park and Festival Fields and a resolution setting the fees for such permit. The Council will take appropriate action.

7 PUBLIC HEARING – ZONING EXTENSION FOR AVONDALE GATEWAY CENTER PAD

City Council will hold a public hearing and consider a request by Mr. Marcos Ergas, The Ergas Group, for a one year extension of PAD zoning for Avondale Gateway Center, located on approximately 84 acres of land at the southwest corner of 107th Avenue and Interstate 10. The Council will take appropriate action.

8 **PUBLIC HEARING AND ORDINANCE 1530-1013 – PAD ZONING REVERSION FOR PAPAGO COMMERCE CENTER**

City Council will hold a public hearing and consider a request to revert the Planned Area Development zoning of Papago Commerce Center, which expired on November 15, 2012, to its previous zoning classification of Agricultural (AG). The Council will take appropriate action.

9 **AMENDMENTS TO LEASE AGREEMENTS - PHOENIX SPEEDWAY CORPORATION AND UNIVERSITY OF MEDICAL SCIENCES ARIZONA**

City Council will consider a request to approve the amendments to the Lease Agreements with Phoenix Speedway Corporation d/b/a Phoenix International Raceway and University of Medical Sciences Arizona and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

10 **DESIGNATION OF VOTING DELEGATES FOR NLC ANNUAL BUSINESS MEETING**

City Council will designate a primary and an alternate voting delegate to represent Avondale at the National League of Cities' Annual Business Meeting to be held at the conclusion of the Congress of Cities in Seattle, Washington on Saturday, November 16, 2013. The Council will take appropriate action.

11 **ADJOURNMENT**

Respectfully submitted,

Carmen Martinez

Carmen Martinez
City Clerk

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

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

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.

RESOLUTION NO. 3143-1013

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, HONORING SERGEANT GEOFFREY HEARD FOR SEVEN YEARS OF DEDICATED SERVICE TO THE CITY OF AVONDALE.

WHEREAS, on January 30, 2006, Sergeant Geoffrey Heard began his career with the City of Avondale as a Police Officer; and

WHEREAS, Sergeant Heard served the City as a Police Officer, and most recently as a Sergeant; and

WHEREAS, fellow employees have embraced Sergeant Heard as a friend; and

WHEREAS, Sergeant Heard has demonstrated integrity and professionalism to all customers and has faithfully served the City during periods of transition and growth; and

WHEREAS, the Council of the City of Avondale wishes to express its appreciation for his hard work, dedication and years of service and to honor Sergeant Geoffrey Heard on the occasion of his retirement after seven years of exemplary service to the citizens of Avondale.

NOW, **THEREFORE**, **BE IT RESOLVED** BY THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, that the City of Avondale does hereby thank Sergeant Geoffrey Heard for his seven years of loyal, dedicated service to the City of Avondale and its citizens.

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

RESOLUTION NO. 3144-1013

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, HONORING OFFICER JEFFERY WILLIAMS FOR TEN YEARS OF DEDICATED SERVICE TO THE CITY OF AVONDALE.

WHEREAS, on February 20, 2003, Officer Jeffery Williams began his career with the City of Avondale as a Police Officer; and

WHEREAS, fellow employees have embraced Officer Williams as a friend; and

WHEREAS, Officer Williams has demonstrated integrity and professionalism to all customers and has faithfully served the City during periods of transition and growth; and

WHEREAS, the Council of the City of Avondale wishes to express its appreciation for his hard work, dedication and years of service and to honor Officer Jeffery Williams on the occasion of his retirement after ten years of exemplary service to the citizens of Avondale.

NOW, **THEREFORE**, **BE IT RESOLVED** BY THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, that the City of Avondale does hereby thank Officer Jeffery Williams for his ten years of loyal, dedicated service to the City of Avondale and its citizens.

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

CITY COUNCIL REPORT

SUBJECT:
APPROVAL OF MINUTES

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Carmen Martinez, City Clerk (623) 333-1214

THROUGH: Charlie McClendon, City Manager

PURPOSE:

1. Work Session of October 7, 2013
2. Regular Meeting of October 7, 2013

ATTACHMENTS:

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No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Contract Award - Invader Pest Management

MEETING DATE:
October 21, 2013

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a contract with Invader Pest Management to provide exterminating services for city facilities in the amount not to exceed $46,000 annually or $230,000 over a contract term of five (5) years 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 Invader Pest for the past three years utilizing a cooperative agreement through the City of Peoria for exterminating services. The City of Peoria's contract expired on March 31, 2013. The City of Avondale contracted with Invader pest on a month to month basis during the RFQ process.

The City of Avondale decided to solicit its own Invitation for Bids (IFB) and specify that the new contract would be an Integrated Pest Management (IPM) program which emphasizes eco-friendly, non-toxic products. The program requires the contractor to use pesticide compounds, formulations and application methods that present the least potential hazard to humans and the environment whenever possible.

DISCUSSION:

The City of Avondale issued an IFB.for exterminating services in the Arizona Business Gazettte on August 1, 2013 and July 30, and in the West Valley View on August 6, 2013. The scope of the services included all city facilities, city park buildings, and well sites and includes Gopher abatement and control. The city received four bid submittals of which two were found to be non-responsive. The two responsive bid submittals were reviewed by procurement personnel and the Facilities Manager. After evaluating the bid submittals staff selected Invader Pest as the successful bidder based on the cost of routine services.

The term of the contract shall be a one (1) year initial term with the ability to renew for four (4) successive one year terms. Staff will analyze the contractor's performance each year and recommend each one year extension based on performance and available funding. Each extension must be approved in writing by the City Manager.

BUDGETARY IMPACT:

The expenditure for exterminating services is included in the Building Maintenance budget line item 101-5420-00-6320 (Contractual Maintenance Building & Grounds) and in the Public Works Department line item 501-9122-00-6180

RECOMMENDATION:

Staff recommends that the City Council approve a contract with Invader Pest Management to provide exterminating services for city facilities in the amount not to exceed $46,000 annually or $230,000 over a contract term of five (5) years and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents.

ATTACHMENTS:

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- Bid Tabulation

City of Avondale
PR 13-027 Integrated Pest Management Services
Bid Opening August 22, 2013

Submittal Requirements	Schendel Pest Services	Invader Pest Management	Western Exterminator	University Termite & Pest Control
Complete Copy IFB	Yes	Yes	Yes	Yes
Addendum 1 & Acknowledged	Yes	Yes	No	No
Entire Bid Only	Yes	Agrees to line Item Award	Yes	Yes
Signed Offer Sheet	Yes	Yes	Yes	Yes
License	Yes	Yes	No	Yes
Complete References	Yes	Yes	Yes	Yes
Price Sheet	Yes	Yes	No	Yes

	Location	Square Footage	Service Type	Amount	Amount	Amount	Amount
ROUTINE SERVICES	Avondale Community Ctr	11,640	A	85.00	37.25	Non-Responsive	Non-Responsive
	Cashion Police Substation	3,000	A	45.00	35.00		
	City Hall	69,300	A	170.00	166.00		
	Police Headquarters	26,300	A	110.00	75.00		
	Court	11,700	A	85.00	37.44		
	Fire Station 171	6,620	A	65.00	35.00		
	Fire Station 172	16,940	A	85.00	43.00		
	Fire Station 173	16,000	A	85.00	42.00		
	Public Safety 174	18,252	A	100.00	44.00		
	Waste Water Plant	4,808	B	65.00	165.00		
	MOSC	31,000	A	110.00	75.00		
	Fleet Services	16,974	A	85.00	43.00		
	Care First Facility	8,465	A	85.00	35.00		
	Sam Garcia Library	13,600	A	110.00	43.00		
	Police Substation	6,480	A	85.00	35.00		
	Police Jail	4,640	A	85.00	35.00		
	Civic Center Library	30,000	A	150.00	60.00		
	Friendship Park						
	North Restroom Block	Approx. 1,500	A	45.00	15.00		
	South Restroom Block	Approx. 2,100	A	45.00	15.00		
	West Restroom Block	Approx. 1,250	A	45.00	15.00		
	Fields		B	150.00	330.00		
	Well#16		B	30.00	35.00		
	Festival Fields Park						
	Central Restroom Block	Approx. 2,240	A	85.00	35.00		
	Fields		B	85.00	165.00		
	Las Ligas Park						
	Fields Only		B	85.00	165.00		
	Donnie Hale Park						
	Restroom Block	Approx. 750	A	45.00	35.00		
	Fields		B	85.00	165.00		
	SUB-TOTAL			**2,305.00**	**1,980.69**	-	-
OTHER SERVICES	Coldwater Spr Booster Sta.		A	85.00	35.00		
			/or B	85.00	165.00		
	Coldwater Well (Well #15)	100	A	30.00	35.00		
			/or B	30.00	165.00		
	Baker Well (Well #23)	23	A	30.00	35.00		
			/or B	30.00	165.00		
	Del Rio Booster Station		A	30.00	35.00		
			/or B	30.00	165.00		
	Del Rio Well	60	A	30.00	35.00		
			/or B	30.00	165.00		
	4th Street Lift Station		A	30.00	35.00		
			/or B	30.00	165.00		
	All Locations	On-Call	A	85.00	95.00		
	All Locations	On-Call	B	85.00	165.00		
	Other			N/A	Gopher clean-out 165.00/hr		
	Additional Services (must specify)			N/A	165.00/hr		
	SUB-TOTAL			**640.00**	**1,790.00**	-	-
	GRAND TOTAL			**2,945.00**	**3,770.69**	-	-

CITY COUNCIL REPORT

SUBJECT:
Joint Facility Use Agreement – The West Valley Arts Council

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Christopher Reams

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a Joint Facility Use Agreement with the West Valley Arts Council (WVAC) to use the City Hall Lobby and the Civic Center Library Art Gallery to display public art, provide an amount not to exceed $2000 per year for the maintenance and insurance of the program, and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents.

BACKGROUND:

On May 2, 2005 Council approved a program between the City of Avondale and the West Valley Arts Council (WVAC), in conjunction with the Arizona Art Alliance to display public art in the City Hall lobby. The WVAC elected to discontinue the program in 2010 due to a reorganization, which included a move to the City of Surprise.

On September 20, 2010 Art League West (ALW) was approved to manage the lobby public art program under the same terms and conditions as the original WVAC agreement with one exception. The area of the Civic Center Library that formerly housed vending machines was added as a location to display public art, and became known as the Civic Center Art Gallery.

The ALW contract expired on September 20, 2013. Staff issued a request for quotes for the service. ALW removed their organization from consideration due to a reduction of volunteers and their inability to continue to manage the program. WVAC is the selected bidder.

DISCUSSION:

Staff, in conjunction with the City Attorney, developed the Joint Facility Use Agrement which stipulates the terms and conditions regarding the program. The term of the agreement is for five (5) years with an annual review by a designated representative of both parties. Either party can dissolve the agreement with cause after a 60 day notification.

The WVAC will have exclusivity to display art in the Civic Center City Hall Lobby and the Civic Center Library Art Gallery in the designated locations only. Temporary exhibits from other sources will be permitted upon approval of the City of Avondale.

City staff met with representatives from the WVAC to discuss specific aspects of the program. The City of Avondale will ensure the City facilities are secured in the evenings and maintain the City-owned art hanging system. The WVAC will ensure all art is juried and act as the liaison between the City of Avondale and participating artists.

BUDGETARY IMPACT:

The City of Avondale is responsible for providing an amount not to exceed $2000 per year for the maintenance and insurance of the program. The WVAC is responsible for any additional program costs. Funds for the City's obligation to this agreement are available through the Parks, Recreation, and Libraries Department / Facilities Division.

Account: 101-5420-00-6320 Contractual Maintenance Buildings/Grounds

RECOMMENDATION:

Staff recommends that the City Council approve a Joint Facility Use Agreement with the West Valley Arts Council (WVAC) to use the City Hall Lobby and the Civic Center Library Art Gallery to display public art, provide an amount not to exceed $2000 per year for the maintenance and insurance of the program, and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Joint Facilitiy Use Agreement - WVAC

JOINT FACILITY USE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE WEST VALLEY ARTS COUNCIL

THIS JOINT FACILITY USE AGREEMENT (this "Agreement") is entered into as of October 21, 2013, between the City of Avondale, an Arizona municipal corporation (the "City"), and the West Valley Arts Council, an Arizona nonprofit corporation ("WVAC"). The City and WVAC are sometimes collectively referred to in this Agreement as the "Parties" and each individually as a "Party."

RECITALS

A. The City and WVAC desire to display public art as defined in the City of Avondale Public Art Master Plan (the "Artwork") in the City of Avondale Civic Center Library Art Gallery and in the lobby, Sonoran Room and second floor lobby of the City of Avondale City Hall (collectively, the "Venues").

B. The City desires to allow WVAC to use the Venues for the display of the Artwork in accordance with the City of Avondale Public Art Master Plan (the "Program").

C. The Parties desire to enter into this Agreement to set forth the terms by which the Parties will jointly administer the Program and the terms by which WVAC may use the Venues.

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until October 20, 2014 (the "Initial Term"), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, WVAC requests, in writing, to extend the Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. WVAC's failure to seek a renewal of this Agreement shall cause the Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of WVAC, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s)

are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. City Obligations.

2.1 Art Hanging Equipment. The City shall procure, purchase, install and maintain art display hanging equipment in each of the Venues.

2.2 Access. The City shall provide WVAC access to the Venues to hang and display the Artwork pursuant to the terms of this Agreement.

2.3 Artwork Approval. The director of the City of Avondale Parks, Recreation, and Libraries Department or designee (the "Director") shall review and approve all potential Artwork before authorizing WVAC to display the Artwork in any of the Venues.

2.4 Staff Designation. The City shall designate a staff member to oversee WVAC's continued use of the Venues and display of the Artwork.

2.5 Security. The City shall ensure that the Venues are secured after normal business hours according to the City's ordinary business practices.

2.6 Promotion. The City may promote the Program, as it determines in its sole discretion, on the City web page, program guide, and information releases.

3. WVAC Obligations.

3.1 Artwork. WVAC shall provide the City with the Artwork and an arts display schedule including general information concerning each artist, providing each artist's contact information and the selling price of the Artwork, where applicable.

3.2 Artwork Approval. WVAC shall ensure that all Artwork has been reviewed and approved by the Director prior to displaying the Artwork in any of the Venues.

3.3 Rotation of Artwork. WVAC shall rotate the Artwork at least quarterly unless otherwise directed in writing by the Director.

3.4 Staff Designation. WVAC shall designate a staff member to serve as the liaison between the City and WVAC.

3.5 Delivery and Removal of Artwork. WVAC shall ensure delivery, set-up, and removal of all Artwork, all under the direction of the Director.

3.6 Permanent Installations. WVAC shall not install any permanent Artwork or fixtures without the express, written approval of the Director.

3.7 Funding. With the exception of the art display hanging equipment that the City is required to purchase, install and maintain pursuant to subsection 2.1, WVAC shall provide all funding for Program requirements, if any.

3.8 Hold Harmless. As a precondition to accepting an artist's work for display as Artwork, WVAC shall enter into an agreement with each of the artists whereby the artist agrees to hold the City and WVAC harmless from the damage, destruction or theft of any Artwork displayed in any of the Venues.

4. Compensation. The City shall pay WVAC for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed $2,000.00 for implementation of the Program. The maximum aggregate amount for this Agreement shall not exceed $10,000.00.

5. Payments. The City shall pay WVAC annually, based on the submission and approval of invoices.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Consultant Personnel. WVAC shall provide adequate, experienced personnel, capable of and devoted to the successful completion of the Program under this Agreement. WVAC agrees to assign specific individuals to key positions. If deemed qualified, WVAC is encouraged to hire City residents to fill vacant positions at all levels. WVAC agrees that, upon commencement of the Program to be implemented under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to implement the Program for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Program than initially anticipated, WVAC shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

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

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

10. Performance Warranty. WVAC warrants that its implementation of the Program will conform to the requirements of this Agreement and to the highest professional standards in the field.

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

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of WVAC, WVAC shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

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

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

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

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

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

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

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

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

Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

(2) WVAC's insurance shall be primary insurance with respect to performance of the Agreement.

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

(4) If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

12.2 Required Insurance Coverage.

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

insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

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

C. Professional Liability. [INTENTIONALLY OMITTED.]

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

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by WVAC of written notice by the City.

13.2 For Cause. If either Party fails to perform any obligation 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, such Party will be in default. In the event of such default, the non-defaulting Party may terminate this Agreement immediately for cause 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 (A) provides written notice to the non-defaulting Party and (B) 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 90 days. In the event of such termination for cause, payment shall be made by the City to WVAC for the undisputed portion of its fee due as of the termination date.

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

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

13.5 Gratuities. The City may, by written notice to WVAC, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by WVAC or any agent or representative of WVAC to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from WVAC an amount equal to 150% of the gratuity.

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

14. Miscellaneous.

14.1 Independent Contractor. WVAC acknowledges and agrees that the services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. WVAC, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of WVAC, its employees or subcontractors. WVAC, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as WVAC meets the requirements as set forth in Section 3 above. WVAC is neither prohibited from entering into other contracts nor prohibited from furthering its nonprofit purposes elsewhere. City and WVAC do not intend to nor will they combine business operations under this Agreement.

14.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

14.3 Laws and Regulations. WVAC shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom WVAC is responsible abides by, remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Program, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future Occupational Safety and Health Administration standards.

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

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

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

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

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

14.9 Subcontracts. No subcontract shall be entered into by WVAC with any other party to furnish any of the material or services specified herein without the prior written

approval of the City. WVAC is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by WVAC.

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

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

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

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to WVAC any amounts WVAC 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 WVAC any amounts WVAC owes to the City for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

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

If to the City: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Charles P. McClendon, City Manager

With copy to: GUST ROSENFELD, P.L.C.
One East Washington Street, Suite 1600

Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire, Esq.

If to WVAC: West Valley Arts Council
13243 North Founders Park Boulevard
Surprise, Arizona 85379
Attn: Bernadette Mills, Executive Director

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

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

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

subsection. The City shall give WVAC or its subcontractors reasonable advance notice of intended audits. WVAC shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

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

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

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

"**City**"

CITY OF AVONDALE,
an Arizona municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2013, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

"**WVAC**"

WEST VALLEY ARTS COUNCIL, an Arizona nonprofit corporation

By:_____

Name:_____

Title:_____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2013, by _____, as _____ of WEST VALLEY ARTS COUNCIL, an Arizona nonprofit corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

CITY COUNCIL REPORT

SUBJECT:
Professional Services Agreement – Speedie & Associates, Inc.

MEETING DATE:
October 21, 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 Speedie & Associates, Inc. to provide geotechnical and environmental services in the amount of $50,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

Geotechnical and environmental engineering services are an integral part of design and construction projects. Geotechnical engineering services include, but are not limited to, pavement design, materials sampling and testing, pavement evaluation, design recommendations and specifications. Environmental services include, but are not limited to, environmental site assessments, compliance audits, risk evaluations and recommendations.

DISCUSSION:

Geotechnical and environmental engineering services are needed for the design and construction of capital improvement projects. The City does not have staff to conduct these services. This Agreement will enable these services to be performed in an effective and timely manner, as needed. Speedie & Associates has successfully completed similar work for the City in the past. Staff has found Speedie & Associates to be competent and qualified.

Through the City's Procurement Policy; where qualified, competent professional consultants are chosen from an on-call selection list, a staff committee is used and the committee selected Speedie & Associates for this Project.

BUDGETARY IMPACT:

Funding for this contract is available in the respective CIP and/or operating budget line items.

RECOMMENDATION:

Staff recommends that the City Council approve a Professional Services Agreement with Speedie & Associates, Inc. to provide geotechnical and environmental services in the amount of $50,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- PSA - Speedie & Associates, Inc.

DUE TO ITS SIZE, THIS DOCUMENT

HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

http://www.avondale.org/DocumentCenter/View/33336

CITY COUNCIL REPORT

SUBJECT:
Professional Services Agreement – Western Technologies, Inc. – Geotechnical and Environmental Services

MEETING DATE:
October 21, 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 Western Technologies, Inc. to provide geotechnical and environmental services in the amount of $50,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

Geotechnical and environmental engineering services are an integral part of design and construction projects. Geotechnical engineering services include, but are not limited to, pavement design, materials sampling and testing, pavement evaluation, design recommendations and specifications. Environmental services include, but are not limited to, environmental site assessments, compliance audits, risk evaluations and recommendations.

DISCUSSION:

Geotechnical and environmental engineering services are needed for the design and construction of capital improvement projects. The City does not have staff to conduct these services. This Agreement will enable these services to be performed in an effective and timely manner, as needed. Western Technologies, Inc. has successfully completed similar work for the City in the past. Staff has found Western Technologies, Inc. to be competent and qualified.

Through the City's Procurement Policy; where qualified, competent professional consultants are chosen from an on-call selection list, a staff committee is used and the committee selected Western Technologies, Inc. for this Project.

BUDGETARY IMPACT:

Funding for this contract is available in the respective CIP and/or operating budget line items.

RECOMMENDATION:

Staff recommends that the City Council approve a Professional Services Agreement with Western Technologies, Inc. to provide geotechnical and environmental services in the amount of $50,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- PSA - Western Technologies, Inc.

DUE TO ITS SIZE, THIS DOCUMENT

HAS BEEN POSTED SEPARATELY

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http://www.avondale.org/DocumentCenter/View/33335

CITY COUNCIL REPORT

SUBJECT:
First Amendment to Professional Services Agreement – Logan Simpson Design, Inc.

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Christopher Reams, Director of Parks, Recreation & LIbraries 623-333-2412

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve an amendment to the Professional Services Agreement with Logan Simpson Design, Inc. (Logan Simpson) to develop the construction documents and provide post design services for the Friendship Park renovation project in the amount not to exceed $79,432 for the amended scope or $151,243 for the entire renovation design project; and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents.

BACKGROUND:

On July 2, 2012 the City Council provided staff with direction and guidance on a concept plan for Friendship Park to enhance park programs, services, and amenities for residents and park visitors.

Logan Simpson was contracted in April, 2012 to complete phase one of the project. Phase one included the development of a full concept plan for the project that includes: fenced athletic fields; additional parking; expanded ramadas; enhanced concessions; and exercise stations around the park.

On April 1, 2013, Logan Simpson was contracted to complete phase two of the project. Phase two includes the development of the project schematic design to a 15% - 30% level of design and a preliminary estimate of probable implementation costs.

DISCUSSION:

Approval of this amendment will authorize Logan Simpson to develop the construction documents and provide post design services for the Friendship Park renovation project. The construction documents developed as a result of this amendment will be representative of Phase (1) of the project. Staff will make a recommendation to Council during the budget process to approve the entire project, subject to availability of funds. However, all phases of the project are designed holistically and completing construction documents from one phase will not affect the design or construction of subsequent phases. The amended term of the contract will be from October 21, 2013 until December 13, 2014. The original expiration date of the agreement was April 1, 2014. The additional term length is required to coordinate the agreement with the proposed construction schedule.

In accordance with the amended scope of work, Logan Simpson and their sub consultants will prepare Design Development and Construction Documents for the Friendship Park improvement project, including the following.

- Entrance improvements and additional parking
- Input into the design of trail and sidewalk improvements along McDowell Road and

coordination with the McDowell Road Improvement Project Team.
- A new picnic area at the north end of the pond, with up to 4 shade ramadas, each with a capacity of approximately 25 people.
- Sports Complex fencing and gates around the five main fields.
- Dog Park relocated from northwest corner of site to southeast corner.
- Modifications as required to drainage, water, power, lighting, and irrigation systems.

The Construction Documents will be prepared to a level that provides sufficient detail for City reviews and cost estimating at 60% and 90% completion, and for public bidding and construction at 100%.

The projected project schedule is as follows:

- Notice to Proceed October 22, 2013
- 60% CDs for review by City Nov 15, 2013
- City Review by Oct 31, 2013
- 90% CDs for review by City Dec 1, 2013
- City Review by Dec 15, 2013
- 100% CDs issued for bidding Jan 15, 2014
- Completion of Construction June, 2014

BUDGETARY IMPACT:

The additional contract amount for the amended scope is $79,432. The original scope of services was contracted for an amount not to exceed $71,811 over the term of the contract. The total amount of services, including all amendments, provided by Logan Simpson will not exceed $151,243. Funding for this agreement has been approved and allocated through the Parks, Recreation, and Libraries Capital Improvement Plan (CIP) budget; budget line item 310-1027-00-8120: PK1027 - Friendship Park

RECOMMENDATION:

Staff recommends that the City Council approve the first amendment to the Professional Services Agreement with Logan Simpson Design, Inc. (Logan Simpson) to develop the construction documents and provide post design services for the Friendship Park renovation project in the amount not to exceed $79,432 for the amended scope or $151,243 for the entire renovation design project; and authorize the Mayor or the City Manager and the City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- PSA - Logan Simpson Design, Inc.

FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LOGAN SIMPSON DESIGN, INC.

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is entered into as of October 21, 2013, between the City of Avondale, an Arizona municipal corporation (the "City"), and Logan Simpson Design, Inc., an Arizona corporation (the "Consultant").

RECITALS

A. The City and the Consultant entered into a Professional Services Agreement dated April 1, 2013, for Consultant to perform schematic design services for improvements at Friendship Park (the "Agreement").

B. The City has determined that additional design services by the Consultant are necessary (the "Additional Services").

C. The City and the Consultant desire to enter into this First Amendment to (i) extend the term of the Agreement, (ii) modify the scope of work to include the Additional Services and (iii) increase the compensation to the Consultant for the Additional Services.

AGREEMENT

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

1. Term of Agreement. The term of the Agreement is hereby extended and shall remain in full force and effect until December 31, 2014, unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

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

3. Compensation. The City shall increase the compensation to Consultant by $79,432.00 for the Additional Services at the rates as set forth in the Additional Fee Proposal, attached hereto as a part of Exhibit A, resulting in an increase of the total compensation, from $71,811.00 to an aggregate amount not to exceed $151,243.00.

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

5. Non-Default. By executing this First Amendment, the Consultant affirmatively asserts that (i) the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

6. Conflict of Interest. This First Amendment and the Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

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

"**City**"

CITY OF AVONDALE,
an Arizona municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on October _____, 2013, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

"**Consultant**"

LOGAN SIMPSON DESIGN, INC.,
an Arizona corporation

By:_____

Name:_____

Title:_____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on October _____, 2013, by _____ _____, as _____ of LOGAN SIMPSON DESIGN, INC., an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

EXHIBIT A
TO
FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LOGAN SIMPSON DESIGN, INC.

[Additional Scope of Work and Fee Proposal]

See following pages.

City of Avondale
Friendship Park
FINAL DESIGN SERVICES

EXHIBIT 'A'

Additional Scope of Work
Revised October 2, 2013

The City of Avondale is developing Phase 1 of the Friendship Park improvements as identified on the Conceptual Plan (attached), dated August 15, 2013, and as outlined below. Logan Simpson Design (LSD) and their subconsultants will prepare Design Development and Construction Documents for the improvements, including the following.

1. Entrance improvements and additional parking (approx. 50 spaces), coordinated with McDowell Road improvements (by others). This includes removal of existing connecting driveways from main entrance roundabout and replacement with parking, signage and plaza improvements.
2. Input into the design of trail and sidewalk improvements along McDowell Road coordinated with the McDowell Road improvements. All final design in the right of way will be done by the McDowell Road design team. LSD work includes coordination with site drainage and access requirements associated with the roadway improvements.
3. A new picnic area at the north end of the pond, with up to 4 shade ramadas, each with a capacity of approximately 25 people. This will include parking area and trail revisions as shown.
4. Sports Complex fencing and gates around the five main fields. Various types of fencing will be considered to fit within the stipulated project budget.
5. Dog Park relocated from northwest corner of site to southeast corner. This includes natural surfaces, new fencing, and relocation of certain items that can be salvaged from the existing dog park. Fencing and furnishings at the existing dog park area will be removed and relocated to the new Dog Park.
6. Modifications required to drainage, water, power, lighting, and irrigation systems as necessary to construct the Phase 1 improvements.
7. Estimated budget for Phase 1 construction is $650,000.

The consultant team consists of Logan Simpson Design Inc. (LSD) as the prime consultant and the following subconsultants: Architekton for architectural design of ramadas, Strand Associates Inc. for civil engineering, surveying and utilities, and Wright Engineering Corporation for electrical and lighting design.

The LSD team will work closely with the City to develop the construction documents and provide post design services for the project as described herein. Construction Documents will be prepared to a level that provides sufficient detail for City reviews and cost estimating at 60% and 90% completion, and for public bidding and construction at 100%. Review comments from City staff will be incorporated into subsequent design submittals.

OVERVIEW OF PROJECT PHASES

The following is a summary of the project:

Task 1 – Project Management
Task 2 – Design Development and Preliminary Construction Documents (60%)
Task 3 – Construction Documents (90% & Final 100% Bid-Ready CDs)
Task 4 – Construction Administration (services during construction)

We anticipate the following project schedule:

Notice to Proceed	Sept 1, 2013
60% CDs for review by City	Oct 15, 2013
City Review by	Oct 31, 2013
90% CDs for review by City	Dec 1, 2013
City Review by	Dec 15, 2013
100% CDs issued for bidding	Jan 15, 2013
Completion of Construction	June, 2014

Task 1. PROJECT MANAGEMENT

LSD will coordinate all work with the City and the project team, endeavor to keep the project on schedule and budget, and identify additional information required to develop the construction documents.

1.1 Project Coordination:

LSD will attend (up to 4) coordination and comment review meetings, and one (1) presentation to City Council. Review meetings are intended to collaborate on solutions, obtain reviews, and coordinate project needs. LSD will coordinate with the City's Project Manager on a routine basis to provide updates on design progress, identify potential issues, and changes in direction or schedule. City staff representatives from both Parks and Recreation and Engineering should attend these meetings to identify current and future design and implementation concerns and issues, and to determine appropriate approaches and direction throughout the design process. We assume that the City will handle any public outreach required for the improvements associated with this project.

LSD will submit construction documents to the City's PM for review at the following stages of completion:

- 60% Design Development
- 90% Construction Documents

LSD will participate in review meetings with the Client, address comments, and submit revised drawings subsequent to each plan review stage.

LSD will manage the work of subconsultants and coordinate their schedule as part of regular project management tasks.

LSD will provide a project schedule identifying meetings, subconsultant deliverables, and key milestones as required to meet the planned completion date. The schedule will be updated as necessary during the design process to reflect potential changes.

1.2 Utility Coordination:

LSD and their subconsultants will provide general coordination with utility companies. LSD will incorporate known utility information, as provided by the City, into the drawings, and prepare its design with consideration given to existing utilities and infrastructure. We assume that the City or Contractor will be responsible for submitting Request for Service letters and providing addresses as required for power and water.

- Lighting and Electrical: Wright Engineering will determine the existing electrical power delivery options. They will coordinate the design with the City and the power provider.

1.3 Field Survey: LSD and their subconsultants will prepare an updated base map as required to identify salvage materials from the existing park and to complete the design work for Phase 1. Strand Engineering will obtain field topographic survey information for the project area as required to supplement the aerial survey prepared in the prior phase of work, to produce a base map for the project site. Field topographic survey information will be limited to the areas identified as Phase 1 in the attached Scope of Work diagram. Additional topographic shots will be taken at locations of above ground utility appurtenances (manholes, valves, power poles, markers, etc.). The base map for the Project will include known right-of-way and easement information and the locations of existing utilities within the project area, based on record drawings furnished by the City.

1.4 Geotechnical Report: If required LSD will retain Terracon to conduct geotechnical engineering services. These may consist of up to four (4) test borings, taken at the locations of proposed ramadas and other structural items, and soil bearing recommendations to help determine the structural characteristics of the existing soils. Borings will be drilled to a depth of five feet below existing ground surface.

1.5 Hydraulic Analysis and Drainage Report: Strand Engineering will complete a hydraulic analysis of the onsite watershed and estimate storm water runoff and 100-year retention volumes in accordance with the City's Engineering Design Criteria. Efforts will be made to limit storm water storage within basins to one foot or less to minimize the need for additional drainage infrastructure. Drainage basin design will take a Low Impact Development approach by integrating storm water retention with landscape enhancements. Strand will prepare a Drainage Report to document the hydrology as well as the final improvement design in accordance with the City standards. A preliminary drainage report will be prepared and submitted for review. A final sealed drainage report will be submitted with the 90% documents.

Task 2. DESIGN DEVELOPMENT (60%CDs)

The LSD Team will prepare design development and construction documents for public bid. Construction drawings will be prepared using AutoCAD release 13 or later and incorporate City standard details and specifications. The LSD Team will provide construction documents for the following design services:

2.1 Grading and Drainage Design: The 60% plans and specifications will be developed incorporating comments received from City reviews during the progress meetings. Strand will review grading and drainage plans for compliance with drainage and erosion control requirements. Grading revisions will be made as required to balance cut and fill on the site to the extent practical.

2.2 Layout and Materials Design: LSD will prepare preliminary construction documents based on the approved programming/schematic design layout and construction budget. The layout and materials plans will provide hardscape horizontal control for locating the park improvements including sidewalks, trails, pavilions, pavements, landscaping, lighting and other park amenities. The proposed materials and finishes will be identified on the plan, and LSD will provide preliminary

installation details for landscape and utility components. Work will be coordinated with the Project Team and the plans will be supported by preliminary details and specifications.

2.3 Ramada Design: LSD will retain Architekton to prepare Design Development level drawings for the ramadas. We anticipate that these will be simple prefabricated structures (with lighting but no water or sewer connections) that can be implemented through a design-build process by the Contractor.

2.4 Planting Design: The landscape plans will identify the locations of all plant materials (including new and salvaged materials) and inert groundcover for aesthetic treatments and dust control. The plan will include a plant schedule, materials schedule, and estimated quantities. LSD will provide installation details for all landscape components.

2.5 Lighting and Electrical Design: 60% plans will be developed based on the approved program. Wright Engineering will assist in the selection of pole mounted pathway lighting and provide for other project electrical needs.

2.6 Irrigation Design: The irrigation system will be connected to the existing non-potable water line with its source located near the pond. The irrigation plans will identify all necessary demolition, removals, new piping and equipment required for a fully functioning irrigation system.

2.7 Details and Specifications: Preliminary details and specifications will be developed and included in the 60% submittal set for review, and cost estimating.

2.8 Estimate of Probable Construction Cost: LSD will update the estimate of probable construction cost at the 60% level. Upon review of the 60% estimate we will work with the City to adjust the scope of work for construction as necessary to develop alternatives that will keep it within he stipulated budget.

Task 3. CONSTRUCTION DOCUMENTS (90%, & Final Bid-Ready/Permit CDs)

LSD and their subconsultants will prepare final construction documents, based on the approved 60% design and City review comments, that are sufficient for bidding and construction of the work outlined above and per the stipulated project budget. The Construction Documents will include plans and details (drawn in AutoCAD 2013), and technical specifications (in MS Word format). Construction Documents will consider compliance with City Standards, and building codes, guidelines and standards such as the International Building Code (IBC), The Americans with Disabilities Act (ADA), and ASTM.

3.1 Existing Conditions and Demolition Plans: LSD will prepare a Demolition, Removals and Salvage plan utilizing the existing field survey, site analysis information and design layout. Whenever possible existing landscape elements such as trees, shrubs and site furnishings, that are in good condition, will be salvaged and reused on the project site or other City parks.

3.2 Grading and Drainage Plan:. The Grading, Drainage and Erosion Control plans will establish vertical controls to identify final locations of site grading features, stormwater conveyance, detention facilities and other site improvements.

3.3 Layout and Materials Plan: The Layout and Materials plans will establish horizontal controls to identify location of proposed site elements and features. This work includes the design and/or selection of pavements, site furnishings, signage, materials and finishes. The materials and installation details for hardscape and landscape elements will be identified on these plans.

3.4 Planting Plan: The Planting plans will identify the locations of all plant materials including salvaged and new trees, shrubs and groundcover plantings, as well as inert groundcover for aesthetics and dust control. The plans will include a plant materials schedule, estimated quantities, and installation details.

3.5 Irrigation Plan: LSD will prepare final irrigation design based on the landscape plan. The irrigation system (piping, meter, backflow devices, valves, etc.) will be broken down by quantity and size. LSD will provide installation details for irrigation components consistent with City requirements.

3.6 Utilities, Lighting and Electrical Plan: LSD and their subconsultants will prepare final plans and specifications for changes to the utilities and lighting necessitated by incorporating the comments received.

3.7 Specifications: LSD and its consultants will prepare technical specifications for the work based on Maricopa Association of Governments (MAG) standard specifications and City requirements. It is understood that the front end General conditions, Special Conditions, Instructions for Bidders, and Advertisement for Bid will be prepared by the City.

3.8 Estimate of Probable Construction Cost: LSD will update the estimate of probable construction cost per the agreed upon bid item breakdown.

Products: LSD will develop, coordinate and assemble a Project Manual that consists of Plans, Specifications and an Estimate of Probable Construction Cost at 90% and 100% completion. Plans will be signed and sealed by an Arizona licensed Landscape Architect or Engineer. Plans and Specifications shall be provided in standard City format or as otherwise requested. The Project Manual will include final design of the items identified under Scope of Work on page 1, as otherwise amended to fit within the approved project budget..

LSD will furnish copies of the Project Manual for bidding and construction including one (1) full-size set of plans, and five (5) half size sets on bond paper, and one (1) copy of final specifications and cost estimate for the City's use. It is understood that the City will be responsible for printing and reproduction of the drawings and documents as required. LSD will provide all final Construction Documents in original digital formats, including Work, Excel and PDF in electronic format. Digital copies of the design files (AutoCAD) will be provided if requested.

CONSTRUCTION ADMINISTRATION

4.1 Pre-Construction Meeting: Prior to the commencement of construction, LSD will attend a Pre-Construction Meeting with the general contractor, subcontractors, and project team. The goal of the Pre-Construction meeting will be to discuss administrative procedures, establish field communication protocol, and to review contractual and technical requirements. It is anticipated that this meeting will be held at the General Contractor's job site office.

4.2 Post Design Services: LSD will review and approve landscape and irrigation submittals as described in the project specifications. LSD will also respond to RFI's and will make requested design changes during construction and will provide sketches/drawings supporting the requested changes.

4.3 Landscape and Irrigation Meetings and Site Visits During Construction: LSD will visit the project site ten (10) times to maintain and ensure quality assurance with the landscape and irrigation. The site visits will be coordinated with the general contractor and the landscape contractor during the Pre-Construction Meeting. The site visits will include the following reviews:

- Hardscape layout
- Grading and berms
- Tree, shrub and cacti accent placement
- Lighting placement
- Irrigation Installation

4.4 Final Walkthroughs: At the end of the project, LSD will complete a substantial completion walkthrough of the landscape and irrigation installations. During this walkthrough a punch list will be created if needed, of items that need to be corrected. This represents a total of one (1) site visit for the substantial completion walkthrough.

4.5 Project Closeout: LSD will review and approve/disapprove all Operations & Maintenance manuals relating to the landscape and irrigation portions of the project. Record Drawings from the Contractor will be submitted to LSD for review and approval. LSD will electronically submit Record Drawings and AutoCAD landscape and irrigation Construction Document Files to the City for Final Acceptance of the project.

DESIGN FEE:

LSD proposes to complete the work specified above for a Lump Sum Fee as broken down by task below. Subconsultant fees and direct reimbursable expenses (printing, mileage, and deliveries) are identified separately in the fee proposal.

Section I – Design Development, Construction Documents and Administration			
Logan Simpson Design (Prime)	**Total**		
Task 1.0 Project Management	$5,466.		
Task 2.0 Design Development	$15,714.		
Task 3.0 Construction Documents	$12,480.		
Task 4.0 Construction Administration	$5,142.		
LSD Subtotal		**$38,802.**	
Subconsultants (at cost):	Total		
Strand Survey and Civil Engineering	$25,500.		
Wright Electrical Engineer	$6,750.		
Architekton	$5,000.		
Terracon	$2,500.		
Subconsultant Subtotal		**$39,750**	
Direct Reimbursable Expenses		**$880**.	
TOTAL FEE AND EXPENSES		**$79,432**	

ASSUMPTIONS

Following is a list of items that are not included as part of the Scope of Work, but may be provided upon request at an additional agreed upon cost.

1. Meetings other than those specifically identified above, including public meetings, public engagement and public relations.
2. Improvements, including utilities, necessary for future phases in accordance with the approved Master Plan.
3. Design of improvements in the McDowell Road Right of Way or other locations off of the project site. We will redline draft drawings of McDowell Road improvements provided by the McDowell Road design team.
4. The design of new electrical and water services. We anticipate that existing services will modified as required to provide additional on-site supply for drinking fountains and irrigation, and lighting/power. we anticipate that no changes will be required to the existing irrigation water pump station.

CITY COUNCIL REPORT

SUBJECT:
Fifth Amendment to Software Support Agreement - Infor Global Solutions (Michigan), Inc.

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Wayne Janis, Public Works Director and Rob Lloyd, CIO/IT Director

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Council will consider the fifth amendment to the Software Support Agreement between the City of Avondale and Infor Global Solutions (Michigan), Inc., to extend maintenance and support services for the software used to administer the Public Works Department's asset management program.

BACKGROUND:

The City of Avondale originally purchased Infor's Enterprise Asset Management (EAM) product in 2008. The software allows the City to increase reliability, enhance predictive maintenance, ensure regulatory compliance, and support sustainability initiatives. It is at the center of a Public Works effort to manage significant municipal assets optimally. The maintenance and support services covered in the proposed contract amendment include application updates, patches and service packs, and support calls.

The City originally entered into a software support agreement with Infor, Inc., under contract number 12325c on March 11, 2008. Four amendments were executed for annual software maintenance and support renewals between November 2009 and November 2012. The current support agreement between the City and Infor, Inc., concludes November 17, 2013.

DISCUSSION:

Continuing use and maintenance of EAM is prudent due to its role and history of use in the Public Works Department and Development Services and Engineering Department. The system performs meets needs, supports the City's work processes, and staff is adept in its use. Conversely, implementing a new system would require a large procurement, significant additional cost to implement, retraining of staff, and would carry considerable inherent risk to execute a new software implementation project successfully.

The proposed amendment provides necessary maintenance and support services for one year with four one-year renewal options. Renewals would occur provided the need for the system exists and City Council approves funding in the annual budget process. Additionally, the City has negotiated terms to cap annual increases in maintenance and support to 5% versus the higher rates in the current agreement.

The City's Procurement Office approved a Competition Impractical Determination for the services covered under the proposed agreement based on (1) the software continues to perform for the City and (2) a replacement system would cost many times the amount of extending the maintenance and support. The City Attorney's Office has also reviewed and approved the Maintenance Payment Plan from Infor, Inc.

BUDGETARY IMPACT:

The first year of maintenance and support will cost $43,669, not including applicable taxes. The maximum aggregate amount for the Agreement totals $243,000 over the term of the contract, if all renewal options are exercised and not including applicable taxes.

Funding for the proposed software services agreement with Infor, Inc., is in the Public Works Department and Development Services and Engineering Department operating budgets, under line items 501-9110-00-6325 (Water Administration), 503-9210-00-6325 (Wastewater Administration) and 201-5925-00-6325 (Traffic Engineering).

RECOMMENDATION:

Staff recommends that the Mayor and City Council approve the fifth amendment to the Software Support Agreement with Infor Global Solutions (Michigan), Inc., to secure maintenance and support services for a total maximum aggregate amount of up to $243,000 over five years (plus applicable taxes) and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- [ ] Fifth Amendment to Software Support Agreement

FIFTH AMENDMENT
TO
SOFTWARE SUPPORT AGREEMENT
BETWEEN
INFOR GLOBAL SOLUTIONS (MICHIGAN), INC.
AND
THE CITY OF AVONDALE

THIS FIFTH AMENDMENT (this "Fifth Amendment") is made as of October 21, 2013, between the City of Avondale, an Arizona municipal corporation (the "Licensee") and Infor Global Solutions (Michigan), Inc., a Michigan corporation ("Infor").

RECITALS

A. The Licensee and Infor entered into a Software Support Agreement, Contract No. 12325, effective October 15, 2009, as amended by that certain First Amendment, effective as of October 15, 2009, in conjunction with that certain License Agreement, effective November 12, 2003, and that certain Order Form, effective October 15, 2009, as amended by that certain Second Amendment, dated January 3, 2011, as amended by that certain Third Amendment, dated October 17, 2011 and as amended by that certain Fourth Amendment, dated September 24, 2012 (collectively, the Software Support Agreement, First Amendment, License Agreement, Order Form, Second Amendment, Third Amendment and Fourth Amendment are referred to herein as the "Existing Agreement"). All of the capitalized terms not otherwise defined in this Fifth Amendment have the same respective meanings as contained in the Existing Agreement.

B. The Licensee has determined that it is necessary to continue the software support services for the City's Datastream 7i System (the "Services"). Pursuant to the Avondale Procurement Policy, Section 13.2, the City has determined that Infor is the reasonable and practicable source to provide the Services and a competitive solicitation for the extension of the Services is not in the best interest of the City, as detailed in the Competition Impractical Determination Form attached hereto as Exhibit A and incorporated herein by reference.

C. The Licensee and Infor desire to enter into this Fifth Amendment to (i) extend the term of the Existing Agreement for the Services (ii) provide for possible renewal terms of the Existing Agreement and (ii) provide for compensation to Infor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Licensee and Infor hereby agree to amend the Existing Agreement as follows:

1. Term. The term of the Existing Agreement is hereby extended from November 17, 2013 to November 17, 2014, unless terminated as otherwise provided pursuant to the terms and conditions of the Existing Agreement (the "Initial Term'). After the expiration of the Initial

Term, the Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the Licensee, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, Infor requests, in writing, to extend the Agreement for an additional one-year term and (iii) the Licensee approves the additional one-year term in writing (including any price adjustments approved as part of the Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the Licensee for any reason. Infor's failure to seek a renewal of the Agreement shall cause the Agreement to terminate at the end of the then-current term of the Agreement; provided, however, that the Licensee may, at its discretion and with the agreement of Infor, elect to waive this requirement and renew the Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Scope of Services. Infor shall perform the Services as set forth on the Existing Agreement and the Maintenance Payment Plan Agreement, attached hereto as Exhibit B and incorporated herein by reference.

3. Compensation. Licensee shall pay Infor for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed $60,000.00 for the Services at the rates as set forth in the Maintenance Payment Plan Agreement attached hereto as Exhibit B.

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

5. Non-Default. By executing this Fifth Amendment, Infor, to its knowledge without investigation, affirmatively (i) asserts that the Licensee is not currently in default, nor has been in default at any time prior to this Fifth Amendment, under any of the terms or conditions of the Agreement and (ii) waives any and all claims related to the Agreement occurring prior to this Fifth Amendment except for those based on any breach of confidentiality, Infor's intellectual property rights or misuse of any software licensed outside the scope of the license.

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

7. Conflict of Interest. This Fifth Amendment may be canceled by the Licensee pursuant to ARIZ. REV. STAT. § 38-511.

8. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Fifth Amendment, the Existing Agreement and the Maintenance Payment Plan Agreement, the documents shall govern in the order listed herein.

[SIGNATURES ON FOLLOWING PAGES]

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

"City"

CITY OF AVONDALE, an Arizona
municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2013, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Infor”

INFOR GLOBAL SOLUTIONS
MICHIGAN), INC., a Michigan
corporation

By: _____

Name: _____

Title: _____

(ACKNOWLEDGEMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2013, by _____ as _____ of INFOR GLOBAL SOLUTIONS (MICHIGAN), INC., a Michigan corporation, on behalf of the corporation.

_____
Notary Public in and for the State of _____

(affix notary seal here)

EXHIBIT A
TO
FIFTH AMENDMENT
TO
SOFTWARE SUPPORT AGREEMENT
BETWEEN
INFOR GLOBAL SOLUTIONS (MICHIGAN), INC.
AND
THE CITY OF AVONDALE

[Competition Impractical Determination Form]

See following pages.

Competition Impractical Determination Form

Department:	Justification Prepared by:	Phone Number:
Public Works	Rob Lloyd	x5011

Description:
Infor Contract Renewal to Allow Continuation of EAM Maintenance and Support (Submitted by IT for PW)

Vendor Name:	Infor	**Vendor Contact:**	Kelly Bergfalk, kelly....
Vendor Address:	380 St. Peter Street, St. Paul, Minnesota, USA 55102	**Phone:**	864 757 9352

Justification

Method of Determination: **Renewal of Proprietary License/Maint.**

Explanation of Determination (Required)

The City of Avondale originally purchase Infor's EAM product for asset management in 2009. The software allows the City to increase reliability, enhance predictive maintenance, ensure regulatory compliance, and support sustainability initiatives. It is at the center of a Public Works effort to manage significant municipal assets optimally.

Procuring a new asset management system would undermine multiple years of investments into EAM to implement it, improve operations, and structure asset management to fit the City's needs. Public Works has made significant operational gains through EAM in preventative maintenance activities, as well as tracking emergency maintenance requirements. These processes keep capital equipment working longer, tracks repair requirements, reduces over-inventory of parts and shrinkage, reduces outages, and reduces cost of ownership long-term.

The structure of the intended contract will also provide four one-year optional renewals to prevent routine renewals from requiring special Council action. This item is included in the PW budget approved by City Council.

Funding Considerations

Estimated Cost: $43,669 in the first year, not including taxes. Up to $242,000, not i...

Price Negotiated: ◉ Yes ○ No Explain: Infor has agreed to cap annual maintenance and support increase...

Is this a recurring need? ◉ Yes ○ No (If Yes, a mult-year contract should be considered)

Budget Availability: Council approved budget item

I hereby affirm the information presented herein to be true and accurate and was prepared in accordance with the City Procurement Code and Policies.

L. Browning	L Browning	10/9/2013
Employee Name	Signature	Date

Department Head Approval: 10/8/13

City Manager Approval ($25,000-$49,999)

Procurement Office Use Only

☐ Request Denied Return Date: ☐ Request in accordance with AP

☐ Requires More Info 23

Procurement Agent Comments:

10-8-13

Finance & Budget Approval Date

Agreed as this is maintenance on proprietary software.

L Brown

EXHIBIT B
TO
FIFTH AMENDMENT
TO
SOFTWARE SUPPORT AGREEMENT
BETWEEN
INFOR GLOBAL SOLUTIONS (MICHIGAN), INC.
AND
THE CITY OF AVONDALE

[Maintenance Payment Plan Agreement]

See following page.

INFOR (US), INC.
MAINTENANCE PAYMENT PLAN AGREEMENT

This Maintenance Payment Plan Agreement ("Agreement"), entered into between Infor (US), Inc., as successor to Infor Global Solutions (Michigan), Inc. ("Infor"), a Delaware corporation with its principal offices located at 380 St. Peter Street, St. Paul, Minnesota, USA 55102 and Customer identified below, ("Party or "Parties"), determines the rights and obligations of the Parties with respect to Customer's payment of Maintenance fees during the period described below for the Products and their respective use designations listed below. This Agreement is governed by the terms of the Software Support Agreement Contract No. 12325 entered into between Infor and Customer on October 15, 2009 (the "Support Agreement"). In the event of a conflict between this Agreement and the Support Agreement, the terms of this Agreement will govern in regards to that conflict. This Agreement is effective as of the last date signed below ("Effective Date"). If the Effective Date does not occur by November 17, 2013, this Agreement is null and void.

Customer Name:	City of Avondale
Customer ID:	93332
Address:	399 E Lower Buckeye Road
City:	Avondale
State/Zip or Province/Postal Code:	AZ 85323

By its signature to this Agreement below, Customer agrees that they will not terminate or reduce Maintenance for the Products or their respective use designations listed below. In the event of such termination or reduction, this Agreement will terminate in its entirety and any remaining Maintenance for the Products listed below will be at a then current specified rate. If Customer continues to renew available Maintenance for all of the Products and their respective use designations listed below for each of the Maintenance renewal periods shown, Infor will agree to the following Maintenance renewal fee payment schedule to extend Customer's Maintenance for such Products and their respective use designations.

			Maintenance Renewal Period 1	**Maintenance Renewal Period 2 (optional)**	**Maintenance Renewal Period 3 (optional)**	**Maintenance Renewal Period 4 (optional)**	**Maintenance Renewal Period 5 (optional)**
Product Description	**Users**	**User Restriction**	**(11/18/13 - 11/17/14)**	**(11/18/14 - 11/17/15)**	**(11/18/15 - 11/17/16)**	**(11/18/16 - 11/17/17)**	**(11/18/17 - 11/17/18)**
Infor EAM Enterprise Edition	7	CU	$15,735.62	$16,522.40	$17,348.52	$18,215.95	$19,126.75
Infor EAM Enterprise Edition	10	CU	$22,482.20	$23,606.31	$24,786.63	$26,025.96	$27,327.26
Infor EAM Enterprise Edition Mobile	3	DV	$898.44	$943.36	$990.53	$1,040.06	$1,092.06
Infor EAM Enterprise Edition GIS Module	1	DA	$4,552.64	$4,780.27	$5,019.28	$5,270.24	$5,533.75
		Total Cost*	$43,668.90	$45,852.34	$48,144.96	$50,552.21	$53,079.82
*Amounts do not include tax		Invoice Due Date	November 17, 2013	November 17, 2014	November 17, 2015	November 17, 2016	November 17, 2017

In the event this Agreement terminates as provided for in this paragraph, Customer may renew Maintenance for the Products and their respective use designations listed above, by paying the then current fees for Maintenance for the Products and their respective use designations listed above, plus an amount equal to 25% of such Maintenance fees for each calendar month after which Maintenance has terminated.

Infor will provide Maintenance in accordance with the then current Support policies.

For INFOR (US), INC.

(Authorized Signature)

(Printed Name)

(Title)

(Date)

For City of Avondale

(Authorized Signature)

(Printed Name)

(Title)

(Date)

CITY COUNCIL REPORT

SUBJECT:
Resolution 3140-1013 – First Amendment to Intergovernmental Agreement with ADOT

MEETING DATE:
October 21, 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 a resolution authorizing Amendment 1 to the Intergovernmental Agreement (IGA) between the City of Avondale and the Arizona Department of Transportation (ADOT) for the administration of the design and scoping of the Agua Fria Multi-Use Path project, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

On June 3, 2013, City Council approved an IGA with ADOT for the design and scoping of the Agua Fria Multi-Use Path project. Due to the complexity of this project including environmental issues and the design of a pedestrian bridge under Interstate I-10, staff requested an additional $50,000 from the Federal Highway Administration (FHWA). FHWA approved the additional funding and therefore, an amendment to the IGA is needed.

DISCUSSION:

The Agua Fria Multi-Use Path project will construct an asphalt multi-use path under Interstate 10 along the Agua Fria east bank that connects Van Buren Street to Friendship Park at McDowell Road.

Amendment 1 to the IGA will increase the amount of federal funding received by the City by $50,000. All term and conditions of the original IGA will remain the same.

The revised breakdown of the Project costs is as follows:

Federal-Aid Funds @ 94.3% (capped)	$217,000
City Match @ 5.7%	$13,117
State Design Review Fee	$10,000
Total Project Scoping/Design Cost	$240,117

BUDGETARY IMPACT:

Amendment 1 has increased the City's cost-share by $3,023, for a total City cost-share amount of $13,117. The City is also responsible for the remittance of a $10,000 design review fee to ADOT. Funding for this project is available in CIP Parkland Fund Line Item, 310-1312-00-8210, Friendship Park Enhancements.

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution authorizing Amendment 1 to the IGA between the City of Avondale and ADOT for the administration of the design and scoping of the Agua Fria Multi-Use Path project, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Resolution 3140-1013

RESOLUTION NO. 3140-1013

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO THE DESIGN AND SCOPING OF THE AGUA FRIA MULTI-USE PATH.

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

SECTION 1. Amendment No. One to the Intergovernmental Agreement with the State of Arizona for the administration of the design and scoping of an asphalt multi-use path under Interstate 10 along the Agua Fria east bank (the "Amendment") is hereby approved substantially in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to 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, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 3140-1013

[Amendment]

See following pages.

ADOT File No.: IGA/ JPA 13-0001169-I
Amendment No. 1, CAR No. 13-0002784
AG Contract No.: P001-2013-001249
Project: I-10 Under path along Agua Fria East Bank
Section: Van Buren to Friendship Park at McDowell Road
Federal-aid No.: CM-AVN-0(215)T
ADOT Project No.: SZ078 01D & 03D
TIP/STIP No.: MA-AVN15-441d
Budget Source Item No.: N/A

AMENDMENT NO. ONE
TO
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF AVONDALE

THIS AMENDMENT NO. ONE (the "Agreement"), entered into this date _____, 2013, pursuant to Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF AVONDALE acting by and through its MAYOR and CITY COUNCIL (the "City"). The City and State are collectively referred to as the "Parties."

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, JPA/IGA 13-0001169-I, A.G. Contract No. P001-2013-001249 was executed on June 24, 2013.

NOW THEREFORE, **in consideration of the mutual agreements expressed herein, the purpose of this Agreement is to increase funding, and the Parties agree to amend the original Agreement, as follows:**

I. RECITALS

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

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

Section I. Paragraph 7. is revised, as follows:

7. The federal funds will be used for the scoping /design of the Project. The estimated Project costs are as follows:

SZ078 03D (scoping/design):

Federal-aid funds @94.3% (capped)	$ 217,000.00
City match @5.7%	$ 13,117.00
State design review fee (SZ078 01D)*	$ 10,000.00
	$ 240,117.00
Summary:	
Total Estimated City Funds	**$ 23,117.00**
Total Federal Funds	**$217,000.00**
Total –Scoping/Design	**$240,117.00**

*(Included in the City Estimated Funds)

The Parties acknowledge that the final Project design costs may exceed the initial estimate(s) shown above, and in such case, the City is responsible for, and agrees to pay, any and all eventual, actual costs exceeding the initial estimate. If the final bid amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project. The City acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all eventual, actual costs exceeding the final bid amount.

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

II. SCOPE OF WORK

Section II, Paragraph 1.b. is revised as follows:

1. The State will:

b. Upon execution of this Agreement, and prior to performing or authorizing any work, invoice the City for the State's design review fee, currently estimated at **$10,000.00** and the City's estimated share of the Project design costs, currently estimated at **$13,117.00** less any amount previously received**.** Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual design review and design costs.

Section II, Paragraph 2.b. is revised as follows:

2. The City will:

b. Upon execution of this Agreement, and prior to performing or authorizing any work, and within thirty (30) days of receipt of an invoice from the State, remit to the State the State's design review fee, currently estimated at **$10,000.00** and the City's share of the Project, currently estimated at **$13,117.00** less any amount previously received. Be responsible for any difference between the estimated and actual design review and design costs.

III. MISCELLANEOUS PROVISIONS

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

ALL NOTICES OR DEMANDS upon any Party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of Avondale
Attn: Charles P. McClendon
11465 W. Civic Center Drive Ste. 120
Avondale, Arizona 85323-6804
(623) 333-1000
(623) 312-0100 Fax

With Copy To
Gust Rosenfeld, PLC
Attn: Andrew J. McGuire, Esq.
One E. Washington Street, Ste. 1600
Phoenix, Arizona 85004
(602) 257-7422
(602) 340-1538

PURSUANT TO ARIZONA REVISED STATUTES § 11-952 (D), attached hereto and incorporated herein, is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

EXCEPT AS AMENDED herein, **ALL OTHER** terms and conditions of the original Agreement remain in full force and effect.

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

CITY OF AVONDALE

By _____
MARIE LOPEZ ROGERS
Mayor

ATTEST:

By _____
CARMEN MARTINEZ
City Clerk

STATE OF ARIZONA
Department of Transportation

By _____
DALLAS HAMMIT, P.E
Senior Deputy State Engineer, Development

IGA-JPA 13-00011697-I
AMENDMENT ONE No. 13-0002784-I

ATTORNEY APPROVAL FORM FOR THE CITY OF AVONDALE

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

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

DATED this _____ day of _____, 2013.

_____
City Attorney

CITY COUNCIL REPORT

SUBJECT:
Resolution 3145-1013 and Ordinance 1529-1013 - Avondale City Code Chapter 5, Article II Judicial Advisory Board

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: David Fitzhugh, Assistant City Manager 623-333-1014

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting the Mayor and Council adopt a resolution declaring as a public record the "City of Avondale Judicial Advisory Board Ordinance, October 13, 2013" and an ordinance adopting the same to establish a Judicial Advisory Board to evaluate applicants for and recommend to Council the appointment or reappointment of a city judge.

BACKGROUND:

At the October 14, 2013 Council Work Session, staff presented a draft ordinance amending Chapter 5 of the Avondale City Code providing for the creation of a Judicial Advisory and Review Board. The ordinance presented proposed a seven (7) person board composed of:

- The Presiding Judge of the Arizona Superior Court of Maricopa County or designee;
- An appellate court judge appointed by the Chief Justice of the Supreme Court;
- A member of the Arizona Bar Association appointed by Council from a list of three nominees provided by the Board of Governors of the ABA;
- A member of the Maricopa Bar Association appointed by Council from a list of three nominees provided by the Board of Directors of the MBA; and
- Three Avondale Electors.

The Board's purpose would be to evaluate and recommend to the City Council a list of three of the best qualified applicants for the position of City Judge in cases where there is a vacancy. They would also evaluate and recommend to the City Council whether or not a sitting judge should be retained including reasons supporting their recommendations. The Council discussed the proposed ordinance and provided direction regarding the composition of the board.

DISCUSSION:

Council directed staff to modify the composition of the board by changing the appointment of an appellate court judge to a municipal court judge with experience in municipal courts similar in nature to Avondale's court. This appointment will be made by the Council. Council also directed staff to increase the number of Avondale electors from three (3) to four (4) to better represent the citizens of Avondale. Finally, Council directed the name of the board be changed to the Judicial Advisory Board. These changes have been incorporated into the attached ordinance.

BUDGETARY IMPACT:

Staff estimates the cost associated with the appointment or reappointment of a city judge to be between $15,000 and $20,000. These costs would be expended for advertising, written customer

surveys, supplies and background research. Staff time would also be incurred in support of the board activities.

RECOMMENDATION:

Staff recommends the Mayor and Council:

- Adopt a resolution declaring as a public record the "City of Avondale Judicial Advisory Board, October 21, 2013"
- Adopt an ordinance to adopt the document declared a public record by the resolution to amend the Avondale City Code Chapter 5 - Courts to create Article II - establishing a Judicial Advisory Board to evaluate applicants for and recommend to Council the appointment or reappointment of a city judge.

ATTACHMENTS:

Click to download

- Resolution 3145-1013
- Code - Chapter 5 Article II - Judicial Advisory Board
- Ordinance 1529-1013

RESOLUTION NO. 3145-1013

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "CITY OF AVONDALE JUDICIAL ADVISORY BOARD ORDINANCE, OCTOBER 21, 2013."

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

SECTION 1. That certain document entitled the "City of Avondale Judicial Advisory Board Ordinance, October 21, 2013," of which three copies are on file in the office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

CITY OF AVONDALE
JUDICIAL ADVISORY BOARD ORDINANCE,
OCTOBER 21, 2013

Article II – Judicial Advisory Board

5-10 - Creation of board.
5-11 - Purpose of board.
5-12 - Membership.
5-13 - Board officers.
5-14 - Disclosure of conflict, ineligibility to vote.
5-15 - Board representation.
5-16 - Board meetings.
5-17 - Appointment and reappointment process.
5-18 - Recommendation process.
5-19 - Council decision.

5-10 - Creation of board.

There is hereby created a citizen board to be known as the Judicial Advisory Board. Board members shall serve without salary or compensation.

5-11 - Purpose of board.

The purpose of the Judicial Advisory Board is to evaluate and recommend to the city council the best-qualified persons to become full-time city judges, to evaluate the performance of incumbent full-time city judges, and to advise the city council about retaining them in office.

5-12 - Membership.

(a) The board shall be composed of eight (8) persons, as follows:

(1) The presiding judge of the Arizona Superior Court for Maricopa County, or designee, who is a superior court judge. The presiding judge or designee must reside in Maricopa County;

(2) An Arizona municipal court judge from another municipality of similar size to Avondale to be appointed by the city council. The appointed judge must reside in Maricopa County;

(3) An active member of the State Bar of Arizona, who shall reside in Maricopa County and who shall be appointed by the city council, from among three (3) nominees recommended by the State Bar of Arizona board of governors;

(4) A member of the Maricopa County Bar Association, who shall reside in Maricopa County and who shall be appointed by the city council (Article V of Avondale City Charter) from among three (3) nominees recommended by the Maricopa County Bar Association board of directors;

(5) Four (4) Avondale electors appointed by the city council, who are not judges in any official capacity, retired judges, nor members of the State Bar of Arizona, but who have distinguished themselves through their public service, impartiality, and objectivity. None of Avondale electors shall be an employee of the city.

(6) There shall be no ex-officio members of the board.

(b) Voting members shall serve staggered terms of four (4) years, which shall expire on July 1. In order to create staggered terms, the following members shall be appointed to an initial term that shall expire on the second July 1 following the appointment: the Arizona municipal court judge appointed by the city council, the State Bar of Arizona member, and two Avondale electors.

(c) Members shall serve without salary or compensation.

(d) No public member shall have been a party to any matters pending before any division of the Avondale Municipal Court for the five (5) years preceding his or her appointment.

(e) Meetings will be held as needed for the purpose of reviewing applications for appointment or to conduct a reappointment review.

(f) Unless otherwise expressly stated in this article, the bylaws adopted pursuant to section 27-3 of the Avondale City Code shall govern the operation of the board.

5-13 - Board officers.

(a) The board's officers shall consist of a chairperson and vice-chairperson, each selected by the board from the board's members.

(b) Board officers shall serve one-year terms. No member shall serve more than two (2) terms as chairperson or two (2) terms as vice-chairperson, not including any term filled for the remainder of another member's unexpired term.

5-14 - Disclosure of conflict, ineligibility to vote.

(a) At the earliest possible opportunity, a member shall disclose to the board at a public meeting:

(1) Any relationship with an applicant (such as business, personal, or attorney-client) that results in an actual conflict of interest or prejudice;

(2) All applicants who constitute "relatives" under the Arizona Conflict of Interest Law (A.R.S. § 38-501 et seq.), as amended;

(3) All efforts to recruit a specific applicant; and

(4) Any information that could reasonably create the appearance of conflict of interest or appearance of prejudice.

(b) Any member with a relationship with an applicant required to be disclosed under subsection (a)(1) and (a)(2) above shall be ineligible to vote.

(c) Any member that discloses information as required under subsection (a)(3) and (a)(4) above may be declared ineligible to vote on a specific recommendation if such member announces an intent to abstain from voting on the item, or a majority of voting members present affirmatively vote to declare an actual conflict or prejudice to exist on the item.

(d) Member participation in the selection and recommendation process under this Article shall not be limited on any application submitted by persons the member recruited to apply, as long as the member has disclosed to all board members the nature of their efforts to recruit the applicant, and the member is not otherwise prohibited from participating under this section.

5-15 - Board representation.

(a) Pursuant to Administrative Order 2000-80 of the Arizona Supreme Court and such subsequent orders as may issue which address this objective, in selecting Judicial Advisory Board members, the appointing authorities shall be sensitive to representation reflecting the diversity of the community served by the Avondale Municipal Court.

(b) The appointing authority for each Judicial Advisory Board member shall advise each board member it appoints that the board member's responsibilities include recruitment of qualified city judge applicants, including qualified minority and women applicants, who may not otherwise apply.

5-16 - Board meetings.

(a) The board may hold a meeting to handle the appointment and reappointment process, to review the board's operating procedures and to handle other business relating to the board.

(b) The chairperson of the board shall issue a call for a meeting of the board to begin the selection process for the appointment or reappointment of a current judge position no later than January 31 of the year in which the term of the current judge ends or within 30 days of being notified that a vacancy exists, whichever is earlier. To determine whether the board will be implementing the appointment or

reappointment process, at least six months prior to the end of the judge's term, the chairperson shall inquire whether the current judge is seeking reappointment.

(c) All board meetings shall comply with the Arizona Open Meeting Law (A.R.S. § 38-431 et seq.) and Public Records Law (A.R.S. § 39-121 et seq.), as amended.

(d) A quorum shall be five (5) voting members.

(e) The affirmative vote of a majority of the voting members present at a meeting and eligible to vote shall be required to take action, unless otherwise set forth herein.

(f) The Human Resources Department shall act as administrative liaison to the board by preparing notices of meetings, minutes, sending information packets to members, and fulfilling all other clerical and administrative responsibilities of the board.

5-17 - Appointment and reappointment process.

(a) *Generally*.

(1) Through the city's Human Resources Department, the board shall advertise notice to the public and licensed attorneys of the vacancy or reappointment of a city judge position.

(2) All members shall consider all applicants in an impartial, objective manner, based only on the applicant's merit and without regard for race, religion, political affiliation or gender of the candidate.

(3) In considering initial appointments or reappointments, the board shall utilize the Arizona Supreme Court's Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments, Rules 6, 7, 8, and 9; and the American Bar Associations Standing Committee on Judicial Independence, Report of the Commission on State Judicial Selection Standards, as guides.

(4) For each applicant, the board shall inquire of the Arizona Commission on Judicial Conduct and the State Bar of Arizona for information on pending or past disciplinary actions.

(5) Consistent with and in addition to the requirements of this chapter, the board is authorized to develop such procedures as it deems reasonable to select and retain outstanding judges on the basis of merit.

(6) Costs associated with the selection and recommendation process shall be reported to council and shall be paid by the city at the direction of council.

(b) *Application and advertising.*

(1) All applicants for appointment or reappointment shall complete an application containing such information as the board and Human Resources Department deems necessary and appropriate to comply with the law and to provide relevant information about the ability of the applicant to perform the duties of a judge.

(2) *Initial Appointments*.

(i) For all appointments under this chapter, the board may use as a guide the "application for nomination to judicial office," formulated under Rule 7 of the Arizona Supreme Court's Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments.

(ii) Applicants shall be given a meaningful opportunity to supplement their applications with a reasonable number of letters of recommendation.

(iii) The board, with the assistance of the Human Resources Department, shall advertise each vacant judge position in a manner designed to provide reasonable notice of the opening, but shall at least publish notice once in the Arizona Attorney magazine, or similar monthly publication; or, alternatively, in a professional newspaper once a week for two successive weeks.

(iv) Board members shall actively seek and encourage well-qualified individuals to apply.

(3) *Reappointments*.

(i) For all reappointments under this chapter, the board may use as a guide all surveys, questionnaires, data forms, and reports, formulated under Rule 6 of the Arizona Supreme Court's Rules of Procedure for Judicial Performance Review in Arizona. The board may request that an outside contractor assist in this process.

(ii) The board, with the assistance of the Human Resources Department, shall solicit public and professional comment in a manner designed to elicit constructive appraisals of a judge's qualification and prior performance, but shall at least publish notice of the potential reappointment once in the Arizona Attorney magazine, or similar monthly publication; or, alternatively, in a daily or weekly newspaper of general circulation once a week for two successive weeks.

(c) *Investigation and evaluation of qualifications.*

(1) In addition to any other material submitted to the board, the board shall consider the administrative performance and workload of the applicant, to the extent such does not conflict with judicial independence, including but not limited to: case aging, case load, the time to rule on matters, rulings that have been reversed or affirmed on appeal, administrative findings of any Administrative Office of the Courts audits, personal actions or complaints filed with the City or through the Administrative Office of the Courts, record of financial management, and supervisory skills.

(2) The board shall not limit its investigation of applicants to documents and material submitted to the board, but shall hold public hearings, personal interviews, and conduct such investigations into the background, performance, and qualifications of the applicants as the board deems necessary and appropriate.

(3) The board shall conduct at least one public hearing soliciting public input concerning the appointment or reappointment of a judge.

(d) *Interviews.*

(1) For initial appointments, the board shall personally interview at least three candidates for city judge; provided, however, the board may proceed to interview candidates if three candidates cannot be obtained after reasonable advertisement of the vacancy.

(2) For appointments and reappointments, the interview shall consist of an applicant presentation and board follow-up questions and be limited to 90 minutes.

(3) For appointments and reappointments, interview questions shall be drafted by the board in advance with assistance from the board secretary. Each applicant shall be given the interview questions and a copy of the material submitted to the board in relation to the applicant, prior to the interview.

(4) For appointments and reappointments, each applicant will be given an opportunity to present answers to the interview questions and response to materials submitted. The board shall then ask follow up questions if necessary.

5-18 - Recommendation process.

(a) All board members shall consider all applicants in an impartial, objective manner, based only on the applicant's merit as a potential or incumbent city judge.

(b) In considering initial appointments or reappointments, the board shall consider comment from all interested members of the public at a public hearing or in writing. For reappointments, the board shall also make inquiry of the Arizona Commission on Judicial Conduct for information on pending or past disciplinary actions against the city judge scheduled for reappointment consideration.

(c) The names of applicants and their applications shall be disseminated to the public or the media upon request, at any time after the closing date for receiving applications. The release of this information shall be subject to redaction of home addresses, telephone numbers or other personal or confidential information.

(d) The board shall interview candidates in accordance with the Arizona Open Meeting Law and may use as a guide Rules 8 and 9 of the Arizona Supreme Court's Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments. The board shall vote on the candidates in an open meeting.

(1) As soon as possible after the vote of the board, the board shall deliver its written recommendations concerning initial city judge appointments to the city council, or an appropriate subcommittee of the council. The board shall identify, in alphabetical order, no less than three (3) best-qualified candidates for each vacancy subject to the exception stated in section 5-17(d)(1) and summarize the relative attributes of each final candidate.

(2) As soon as possible after the vote of the board, the board shall also deliver its written recommendations concerning reappointments of city judges to the city council, or an appropriate subcommittee of the council. The board shall state that the board does or does not recommend reappointment of the city judge, summarizing the reasons for the recommendations.

(3) Notwithstanding section 5-17, above, the city council may consider all candidates recommended by the Judicial Advisory Board to fill the initial vacant position for any vacancies that arise within four (4) months of the effective date of the appointment to fill the initial vacant position. The council may direct the board to recommend additional candidates from existing applications, or initiate additional recruitment action, or to exercise its discretion in determining whether to recommend additional candidates from existing applications or to initiate additional recruitment action.

(4) The appointment of any candidate from existing applications pursuant to subsection 5-18(d)(3), above, must be made by the city council within the four (4) month period from the effective date of the appointment to fill the initial vacant position.

(5) In the event that additional recruitment action is initiated pursuant to subsection 5-18(d)(3), above, either at the direction of the council, or in the exercise of the board's discretion, the board may elect to review existing applications and shall solicit additional applications. The board may waive reapplication and/or interview requirements as to existing applicants.

5-19 - Council decision.

The city council may accept or reject the board's advice and recommendations. The city council may also refer a specific appointment or reappointment back to the board for more investigation and findings and may request that the board recommend additional candidates for consideration.

ORDINANCE NO. 1529-1013

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CODE, CHAPTER 5, CITY COURT, BY ADDING A NEW ARTICLE II, JUDICIAL ADVISORY BOARD, AND ADOPTING BY REFERENCE THE "CITY OF AVONDALE JUDICIAL ADVISORY BOARD ORDINANCE, OCTOBER 21, 2013."

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

SECTION 1. That certain document known as the "City of Avondale Judicial Advisory Board Ordinance, October 7, 2013" (the "Judicial Advisory Board Ordinance"), three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 3145-1013 of the City of Avondale, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 2. The Avondale City Code, Chapter 5 (City Court) is hereby amended by adding the Judicial Advisory Board Ordinance, which shall be inserted into the Avondale City Code, Chapter 5 (City Court), as a new Article II (Judicial Advisory Board).

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason to be held unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such decision shall be deemed separate, distinct and independent of the remaining provisions of this Ordinance and shall be severed therefrom without affecting the validity of the remaining portions of this Ordinance.

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

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

CITY COUNCIL REPORT

SUBJECT:
Ordinance 1528-1013 - Amending the City Code to establish a Liquor in the Park Permit and Resolution 3141-1013 - Setting the fee for the permit

MEETING DATE:
October 21, 2013

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt and ordinance to amend the Avondale Municipal Code, Chapter 17, Section 17-21, to establish a new alcohol permit to allow the possession and consumption of alcohol within specific areas of Friendship Park and Festival Fields and a resolution setting the fees for such permit.

BACKGROUND:

On July 6, 2004 the Avondale City Council approved an ordinance that changed the Avondale Municipal; Code, Chapter 17, Section 17-21 (the Code) which restricted the consumption and sale of alcohol in City parks. The resulting changes restricted glass beverage containers, and the possession or consumption of alcohol. The Code did allow exemptions for Non-profit organizations during special events.

On July 15, 2013 City Council provided direction to staff for expanding the 2004 exemptions. The proposed changes to the Code would remove alcohol restrictions under certain circumstances. The changes will allow the sale and consumption of alcohol at Friendship Park and Festival Fields during special events, through a contracted vendor, or with an approved permit for individuals and organizations.

The City of Avondale issued permits allowing alcohol in City parks prior to the July 6, 2004 changes. Permits were issued by the City Clerks office. There were no serious issues noted during that time period relating to the permit holders.

The proposed policy changes are intended to provide Avondale citizens and visitors a broad range of opportunities to enjoy their parks and recreation facilities, special event areas, and family and organizational gatherings. These guidelines do not apply to neighborhood parks, youth events, or for non-field or ramada uses.

DISCUSSION:

If approved, the Code will be revised as follows:

The possession and consumption of alcohol is permitted at Friendship Park and Festival Fields with an approved alcohol permit or from a contracted and licensed vendor. Alcohol can only be consumed in designated locations approved by the City of Avondale. It shall be unlawful for any person to consume or have in his or her possession any intoxicating beverage in any other public park area located within the city, except where a license has been issued pursuant to section 13-95

of this Code. A violation of this section shall constitute a class one misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500.00) or by imprisonment for not more than six (6) months in jail. (Ord. No. 1021-04, § 1, 7-6-04)

An alcohol permit for possession or consumption of beer and wine may be granted by Avondale City Parks and Recreation Division. The permit must be purchased in person by persons at least 21 years of age. An alcohol permit will only be granted in conjunction with a park ramada or sports field reservation and will be limited in duration to the timeframe of the reservation. Alcohol must be served and consumed under the reserved ramada or within the fenced area of the reserved sports complex. It is not allowed in the dugouts, sports field, playground, sports courts or any other area of the park.

The alcohol permitting process has been added to the current sports field, ramada, and facility reservation system. Persons requesting an alcohol permit must comply with the following provisions:

- Individuals, groups, or organizations wishing to reserve a ramada, athletic field, or other facility must obtain a rental contract from the Avondale Parks, Recreation, and Libraries Department.
- Persons requesting an alcohol permit must be at least 21 years of age. Age will be verified by City staff.
- Reservations must be made in person at the Parks and Recreation service counter.
- Avondale residents may reserve fields 14 days in advance. Non Avondale residents are allowed to reserve facilities 7days in advance.
- Same day reservations must be made by 4:00 p.m.
- Weekend reservations must be made by Thursday no later than 6:00 p.m.
- Ramadas can be reserved one year in advance.
- The permit holder must be present during the entire time of the reservation.
- The permit holder will be responsible for ensuring all members of his/her group are of legal age to drink beer, according to Arizona State Law
- The permit holder will be responsible for the conduct of all group members.
- The permit holder will be responsible for depositing litter in the proper receptacles after the event is completed.
- The permit holder must retain the copy of the approved permit and make it available upon request by City staff.
- Obnoxious behavior or excessive noise will not be permitted.
- Beer permits are not transferable and non-refundable.
- Failure to comply with park regulations may forfeit the right to receive permits in the future.
- Permits are revocable at any time for violation of rule, ordinance, or state law.

City of Avondale Reservation and Alcohol Permit Fees are as follows:

Type	**Resident**	**Non-Resident**
Ramada	$5 / hour (Single Ramada) $10 / hour (Double Ramada)	$10 / hour (Single Ramada $15 / hour (Double Ramada)
Field Rental (7am-5pm)	$10 / hour	$15 / hour
Field Rental (5pm-10pm)	$15 / hour	$25 / hour
Alcohol Permit	$10 / reservation	$15 / reservation

The allowable permitting and fee schedule of other West Valley Municipalities are as follows:

City	Permit Allowed	Cost (Resident/Non Resident)
Glendale	Yes	$20 / $22
Goodyear	No permit required	
Buckeye	Special Event Liquor License only	
Phoenix	Yes	$28 / $28
Litchfield Park	Special Event Liquor License only	
Tolleson	Yes	$10 / $20

BUDGETARY IMPACT:

Approval of this action will create the following new City of Avondale user fees:

Alcohol permit (Avondale resident): $10
Alcohol permit (non-Avondale resident): $15

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt an ordinance to amend the Avondale City Code Chapter 17, Article II, Section 17-21 to establish a new alcohol permit to allow the possession and consumption of alcohol within specific areas of Friendship Park and Festival Fields
2. Adopt a resolution setting the fees for such permit.

ATTACHMENTS:

Click to download

- Ordinance 1528-1013
- Resolution 3141-1013

ORDINANCE NO. 1528-1013

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CODE, CHAPTER 17, PARKS AND RECREATION, ARTICLE II, SPIRITUOUS LIQUOR, SECTION 17-21, SPIRITUOUS LIQUOR IN A PUBLIC PARK OR RECREATIONAL AREA; VIOLATION.

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

SECTION 1. The Avondale City Code, Chapter 17 (Parks and Recreation), Article II (Spirituous Liquor), Section 17-21 (Spirituous liquor in a public park or recreational area; violation) is hereby amended as follows:

17-21 – Spirituous liquor in a public park or recreational area; violation.

(A) EXCEPT AS SPECIFICALLY SET FORTH IN SUBSECTION 17-21(B) BELOW, it shall be unlawful for any person to consume or have in his or her possession any intoxicating beverage in any public park area located within the city~~, except where a license has been issued pursuant to section 13-95 of this Code.~~ A violation of this section shall constitute a class one misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500.00) or by imprisonment for not more than six (6) months in jail.

(B) CONSUMING OR POSSESSING INTOXICATING BEVERAGES IN PUBLIC PARKS SHALL BE PERMISSIBLE ONLY IN THE FOLLOWING CIRCUMSTANCES:

(1) THE POSSESSION AND CONSUMPTION OF ALCOHOL SHALL BE PERMITTED AT FRIENDSHIP PARK AND FESTIVAL FIELDS WITH AN APPROVED ALCOHOL PERMIT ISSUED BY THE AVONDALE CITY PARKS AND RECREATION DIVISION. THE PERMIT MUST BE PURCHASED IN PERSON BY, AND ALCOHOL POSSESSED AND CONSUMED ONLY BY, PERSONS AT LEAST 21 YEARS OF AGE. AN ALCOHOL PERMIT WILL ONLY BE GRANTED IN CONJUNCTION WITH A PARK RAMADA OR SPORTS FIELD RESERVATION AND WILL BE LIMITED IN DURATION TO THE TIMEFRAME OF THE RESERVATION. ALCOHOL MUST BE SERVED AND CONSUMED UNDER THE

RESERVED RAMADA OR WITHIN THE FENCED AREA OF THE RESERVED SPORTS COMPLEX.

(2) ALCOHOL PURCHASED FROM A LICENSED VENDOR OPERATING IN A CITY PARK PURSUANT TO A CONTRACT WITH THE CITY.

(3) ALCOHOL SERVED IN CONNECTION WITH A SPECIAL EVENT LIQUOR LICENSE ISSUED PURSUANT TO SECTION 13-95 OF THIS CODE, AS AMENDED.

(C) ALCOHOL IS NOT ALLOWED IN OR ON THE DUGOUTS, SPORTS FIELDS, PLAYGROUNDS, SPORTS COURTS OR ANY OTHER AREA OF THE PARK THAT IS NOT DIRECTLY RELATED TO THE PERMITTED USES SET FORTH IN SUBSECTION 17-21(B) ABOVE.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason to be held unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such decision shall be deemed separate, distinct and independent of the remaining provisions of this Ordinance and shall be severed therefrom without affecting the validity of the remaining portions of this Ordinance.

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

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

2028155.2

RESOLUTION NO. 3141-1013

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING PERMIT FEES FOR ALCOHOL IN THE PARK, AMENDING THE ADOPTED FEE SCHEDULE TO INCLUDE THE NEW FEES, AND SETTING AN EFFECTIVE DATE.

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

SECTION 1. The permit fees for alcohol in the park (the "Alcohol Permit Fees") are hereby established in the following amounts:

Resident	$10.00	per reservation
Non-resident	$15.00	per reservation

SECTION 2. The Fee Schedule adopted by Resolution 3121-613 as part of the 2013-14 City of Avondale Budget is hereby amended to include the Alcohol Permit Fees in the Recreation Fees Section.

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

SECTION 4. The fees shall take effect at 12:01 a.m. on December 1, 2013.

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing – Zoning Extension for Avondale Gateway Center PAD

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Tracy Stevens, Development and Engineering Services Director (623) 333-4013

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

REQUEST: This is a request for a one year extension of Planned Area Development zoning on the subject property to September 18, 2014, subject to four staff recommended stipulations.

PARCEL SIZE: Approximately 84 acres

LOCATION: Southwest corner of 107th Avenue and Interstate 10

APPLICANT: Mr. Marcos Ergas, The Ergas Group/Avondale (2010) Holdings LLLP (604) 687-2310

OWNER: Mr. Marcos Ergas, Avondale (2010) Holdings LLLP (604) 687-2310

BACKGROUND:

The property was annexed into the City March 17, 1986. Upon adoption of the City's 1990 Zoning Ordinance and Map, the property was zoned Agricultural (AG). On August 18, 2008 the City Council approved case Z-07-16 Avondale Gateway Center, through Ordinance 1321-808, rezoning the property to Planned Area Development (PAD).

Two one-year extensions of the PAD have subsequently been approved by the City Council: The first, on November 7, 2011 extended the PAD through September 18, 2012 (Exhibit I), the second, on September 17, 2012, extended the PAD through September 18, 2013 (Exhibit J).

The PAD Development Plan and Ordinance (Exhibits E and F) requires development of multi-story offices use along Interstate 10, commercial uses along 107th Avenue, and business park uses on the balance of the property to the south and west. The PAD was the first in Avondale to require minimum building heights – 3 stories for buildings in the office sub-area adjacent to I-10. The PAD also places a strong emphasis on encouraging pedestrian and cyclist movement throughout the overall 84 acre site, requiring shaded pedestrian connections, bicycle parking, and commercial buildings which have dual orientations to serve both internal and external users.

In 2010, the Roosevelt Street alignment through the property was designated as part of the City's preferred high-capacity transit corridor (HCT). To accommodate future HCT, additional right-of-way and a straight alignment was required. The corridor alignment was defined further in the General Plan 2030 update and Freeway Corridor Specific Plan updates.

The alignment of Corporate Drive and Roosevelt Street approved in the PAD Development Plan do not match the City's current vision, since at the time of initial rezoning the applicant was required to match the City's transportation plan in effect in 2007. Last year's approval required the applicant/owner to dedicate the right-of-way necessary to accommodate the future construction of

the Roosevelt Street HCT route. Since that approval, staff has engaged a surveying firm and is nearly finished with a Map of Dedication that will provide the City with the necessary right-of-way in the correct location for this important future corridor.

SUMMARY OF REQUEST:

1. The applicant is requesting a one year extension of the expiration date of PAD zoning to September 18, 2014 (Exhibit H). If approved, this will be the third of four allowable one-year extensions.
2. Similar to last year's extension stipulations, staff is recommending a stipulation requiring dedication of right-of-way beyond what was initially called for in the PAD, for future construction of a high-capacity transit corridor along Roosevelt Street. The future alignment is illustrated in Exhibit G.
3. With the City's plan for Roosevelt Street to become a major transit route, Corporate Drive is no longer needed. A stipulation is included that specifies that future dedication and construction of Corporate Drive will no longer be required of the developer.
4. Staff is recommending a stipulation amending the PAD Development Plan to remove language conflicting with the Zoning Ordinance. The PAD requires that City Council approve Master Site Plans, and substantial changes to Master Site Plans be reviewed by Planning Commission and approved by City Council. All site plans are reviewed and approved administratively by staff provided that they are in conformance with the approved PAD Development Plan.
5. An amendment to the Freeway Corridor Specific Plan was adopted by the City Council on September 16th. As part of this extension, staff is recommending a stipulation requiring future development of the site adhere to the requirements of that plan, which includes minimum floor area ratios, architectural requirements, and requirements intended to enhance walkability throughout the corridor.
6. A significant portion of the property which had previously been designated by the 2002 General Plan as Employment is now designated by the General Plan 2030 as Mixed Use. To encourage a wider variety of compatible uses in line with the GP2030's Mixed Use vision for the area, staff recommends a stipulation that will expand the uses allowed in the Business Park sub-area (See map in Exhibit F, Page 22) to include, in addition to those uses already permitted by the PAD, any uses permitted in the City Center's Employment Mixed Use sub-district.
7. With the exception of the Freeway Corridor Specific Plan and land use stipulations noted in items 5 and 6 above, all conditions of approval recommended with this application were approved as part of the second extension last year. This year's extension simply extends these conditions along with the PAD zoning itself.

PARTICIPATION:

Not required for PAD extension requests.

PLANNING COMMISSION ACTION:

Not required for PAD extension requests.

ANALYSIS:

<u>Conformance with General Plan</u>

The Avondale Gateway Center PAD was approved while the 2002 General Plan Land Use Map was still in effect. That General Plan Land Use Map identified the property as Employment. The General Plan 2030, adopted in 2012, revised the Land Use Map as it pertains to this property (Exhibit A), applying three different designations to different portions of the site, as follows:

- The majority of the site's I-10 frontage is designated as High Intensity Office. This category allows for high-rise office with auxiliary retail, restaurant, and service uses acceptable when located at street level. The approved PAD has designated this area as the "Office" sub-area.

The PAD requires development of multi-story Class-A office buildings, in line with the City's vision for the area. The PAD is in conformance with the General Plan as it relates to the High Intensity Office designation.

- The property's 107th Avenue frontage is designated as Freeway Commercial. This category is designed to accommodate intense retail and hospitality uses that take advantage of access and visibility to the I-10 Freeway. The approved PAD has designated this area as "Employment/Commercial". The PAD allows for the development of a range of commercial uses that are compatible with the City's vision for Freeway Commercial development. As such, the PAD is in conformance with the General Plan as it relates to the Freeway Commercial designation.
- The remainder of the property is designated as Mixed Use. The Mixed Use category allows for a mixture of residential and commercial land uses that are designed to foster walkability from place to place. The approved PAD designates this area as the "Business Park" sub-area. The PAD allows only a limited range of uses in this sub-area that were appropriate for the previous General Plan's concept but are not reflective of the City's vision for a Mixed Use development. As such, staff has recommended a stipulation (#4) to widen the list of permitted uses in the "Business Park" sub-area to include various commercial uses as well as residential uses (above street level).

Conformance with the Freeway Corridor Specific Plan

The property falls within the boundaries of the Freeway Corridor Specific Plan (FCSP), originally adopted in 1991 and most recently amended in September of this year. The amendment to the FCSP furthered the General Plan's objectives by establishing minimum floor-area ratios on properties adjacent to the City's proposed Roosevelt Street transit corridor. Additionally, the FCSP update strengthened design and development standards to ensure the area is developed with high quality architecture and sites designed to promote walkability, bikeability, and transit access.

The approved Avondale Gateway Center PAD showed tremendous foresight by establishing minimum building heights (3 stories minimum) in the office sub-area, the first PAD in Avondale to do so, as well as including numerous provisions designed to promote walkability throughout the overall development. The FCSP stresses these concepts even more strongly, requiring intense development with minimum FARs ranging between 1.0 and 1.5 throughout the whole site (Exhibit K), not simply the Office sub-area. Intense development on this site is crucial to attract the population necessary to warrant future high capacity transit service on the Roosevelt Street alignment which bisects this site. As such, staff has recommended a stipulation requiring development adhere to the Freeway Corridor Specific Plan, including the minimum FAR requirements specified therein. As with any property subject to the FCSP, phasing of development will be allowed to accommodate less intense development in a more immediate time frame should market conditions prevent the full realization of the City's vision in the near future.

Conformance with the Zoning Ordinance, Design Manual, and Engineering Requirements

The approved PAD is in substantial conformance with the Zoning Ordinance with regard to allowed uses. The uses allowed in the office subarea of the PAD property along the freeway are modeled upon the Commercial Office (C-O) Zoning District. The uses allowed in the business park subarea are modeled upon the Commerce Park (CP) Zoning District, with staff recommending a stipulation to also allow a range of commercial and residential uses in that area to meet the vision of the General Plan 2030. The uses allowed in the commercial/business park subarea of the PAD along 107th Avenue were custom created to allow for commercial and retail uses that benefited, and served, the office and business park in the rest of the PAD.

The approved PAD is in substantial conformance with the Zoning Ordinance with regard to development standards. Maximum building heights north of Gateway Boulevard are 150 feet/10

stories, and south of Gateway Boulevard are 40 feet/4 stories. In the business park subarea minimum building setbacks were reduced from 25 to 20 feet, and maximum building coverage of 50% was eliminated. The approved PAD exceeds the Zoning Ordinance development standards by requiring minimum building heights of 3 stories in the office subarea, increasing building setbacks from 20 to 30 feet away from 107th Avenue, increasing minimum landscaping in business park subareas from 5% to 10%, and increasing minimum landscaping in parking areas near the freeway from 5% to 15%.

These already established standards are compatible with the minimum FARs specified in the FCSP.

The approved PAD substantially complies with the signage requirements of the Zoning Ordinance with only a few minor exceptions. These exceptions include allowing the one freeway pylon sign to be 75 feet height, instead of 65 feet. The 75-foot height matches the Avondale Automall's freeway pylon sign. The approved PAD also allows individual pads along 107th Avenue to have their own monument sign, when the Zoning Ordinance would prohibit pads in a master planned development from having their own monument signs.

All development in the approved PAD is required to comply with the City's Commercial, Industrial, and Multi-Family Residential Design Manual, per a condition of approval adopted in Ordinance 1321-808 rezoning the property to PAD. Compliance with the design standards in the FCSP will also be required by stipulation of this approval.

Lastly, the PAD substantially complies with the Public Art Ordinance, which requires a minimum 0.25% of development valuation to go to public art, with maximums established by square footage as follows: 50,000-250,000 s.f. cap of $100,000; 250,001 – 350,000 s.f. cap of $125,000; and, 350,001 s.f. and greater cap of $150,000. The approved PAD requires a minimum of 1% development costs to go to public art, but sets the cap at $100,000.

PAD Zoning Expiration

The Zoning Ordinance requires that development of the first phase commence within three years of the effective date of the ordinance rezoning the property to PAD. Application for a one year extension of this deadline may be made to City Council. City Council may grant a maximum of four such extensions. If an extension is denied, City Council may revert the zoning of the property to its previous zoning.

The effective date of the Avondale Gateway Center PAD rezoning ordinance was September 18, 2007. A one-year extension was granted by Council on November 7, 2011 that maintained the validity of the PAD through September 18, 2012 (Exhibit I). A second one-year extension was granted by Council on September 17, 2012 that maintained the validity of the PAD through September 18, 2013 (Exhibit J). This is the third PAD extension request for this PAD. If the PAD zoning extension application is granted, the property will remain zoned PAD through September 18, 2014.

Conclusion:

Based on the information provided by the applicant and the analysis by staff, staff recommends approval of the requested one year extension of PAD zoning with the following conditions of approval:

1. In order to conform to the General Plan 2030 and current Transportation Plan, the alignment of Corporate Drive adjacent to this property shall be abandoned and the Roosevelt Street alignment shall be as depicted in Exhibit G. The City is currently in the process of preparing the necessary documents for right-of-way dedication; the property owner will be required to sign these documents

to dedicate the needed right-of-way as a condition of this zoning extension.

2. The last sentence in paragraph 5 of page 10 of the PAD Development Program (Exhibit F), which requires City Council approval of each Master Site Plan, and the last paragraph (paragraph 6) of page 10, which requires Planning Commission review and City Council approval of changes to a Master Site Plan, are both struck and deleted from the Development Plan document. Master Site Plans shall be reviewed and approved administratively by staff.

3. Development on the Avondale Gateway site shall comply with the Freeway Corridor Specific Plan, including adherence to minimum floor area ratios as specified in that document.

4. To conform to the General Plan designation of Mixed Use, the area identified in the PAD as the "Business Park" sub-area may, in addition to those uses already approved and allowed by the PAD for this sub-district, be developed with the uses allowed in the City Center's "Employment Mixed Use" sub-district.

FINDINGS:

With staff recommended stipulations, the proposed request is in conformance with the General Plan 2030, the Freeway Corridor Specific Plan, the Zoning Ordinance, and the City's Transportation Plan.

RECOMMENDATION:

Staff recommends that the City Council **APPROVE** application PL-13-0156 subject to four stipulations as specified above.

PROPOSED MOTION:

I move that the City Council **APPROVE** application PL-13-0156, a request for a one year extension of PAD zoning for Avondale Gateway Center through September 18, 2014, subject to the four staff recommended stipulations.

ATTACHMENTS:

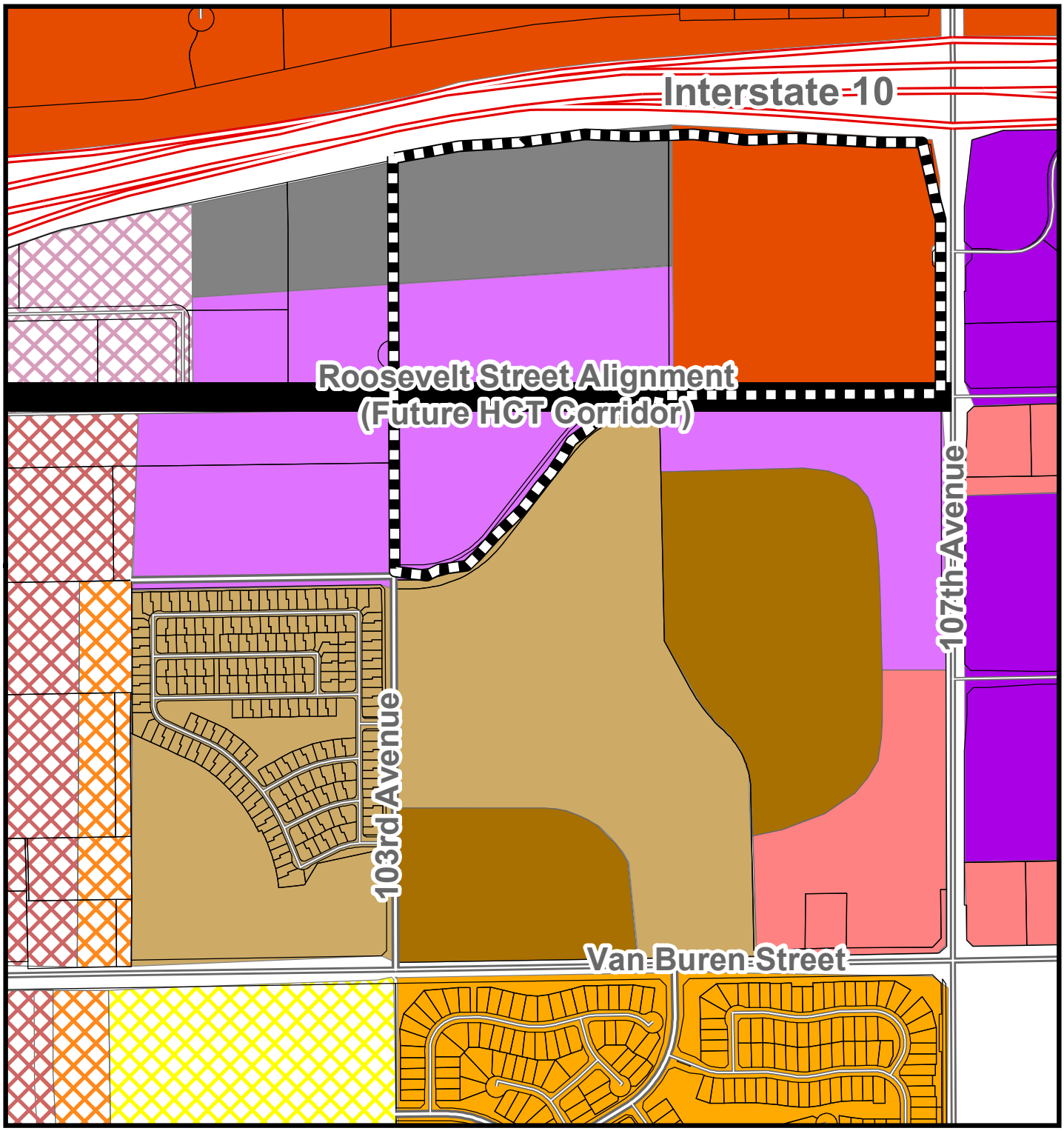
Click to download

- Exhibit A - General Plan 2030 Land Use Map
- Exhibit B - Zoning Vicinity Map
- Exhibit C - Aerial Photograph
- Exhibit D - Summary of Related Facts
- Exhibit E - Ordinance 1321-808 Approving the Avondale Gateway Center PAD
- Exhibit F - Approved Avondale Gateway Center PAD Development Plan
- Exhibit G - Map depicting owner-required ROW dedications and abandonments related to the Roosevelt Transit Alignment
- Exhibit H - Applicant's Request for Time Extension
- Exhibit I - Excerpt from City Council Minutes, Regular Meeting of November 7, 2011 (Approval of 1st Extension)
- Exhibit J - Excerpt from City Council Minutes, Regular Meeting of September 17, 2012 (Approval of 2nd Extension)
- Exhibit K - Excerpt of Freeway Corridor Specific Plan relating to minimum FARs on the subject property

PROJECT MANAGER:

Ken Galica

Exhibit A

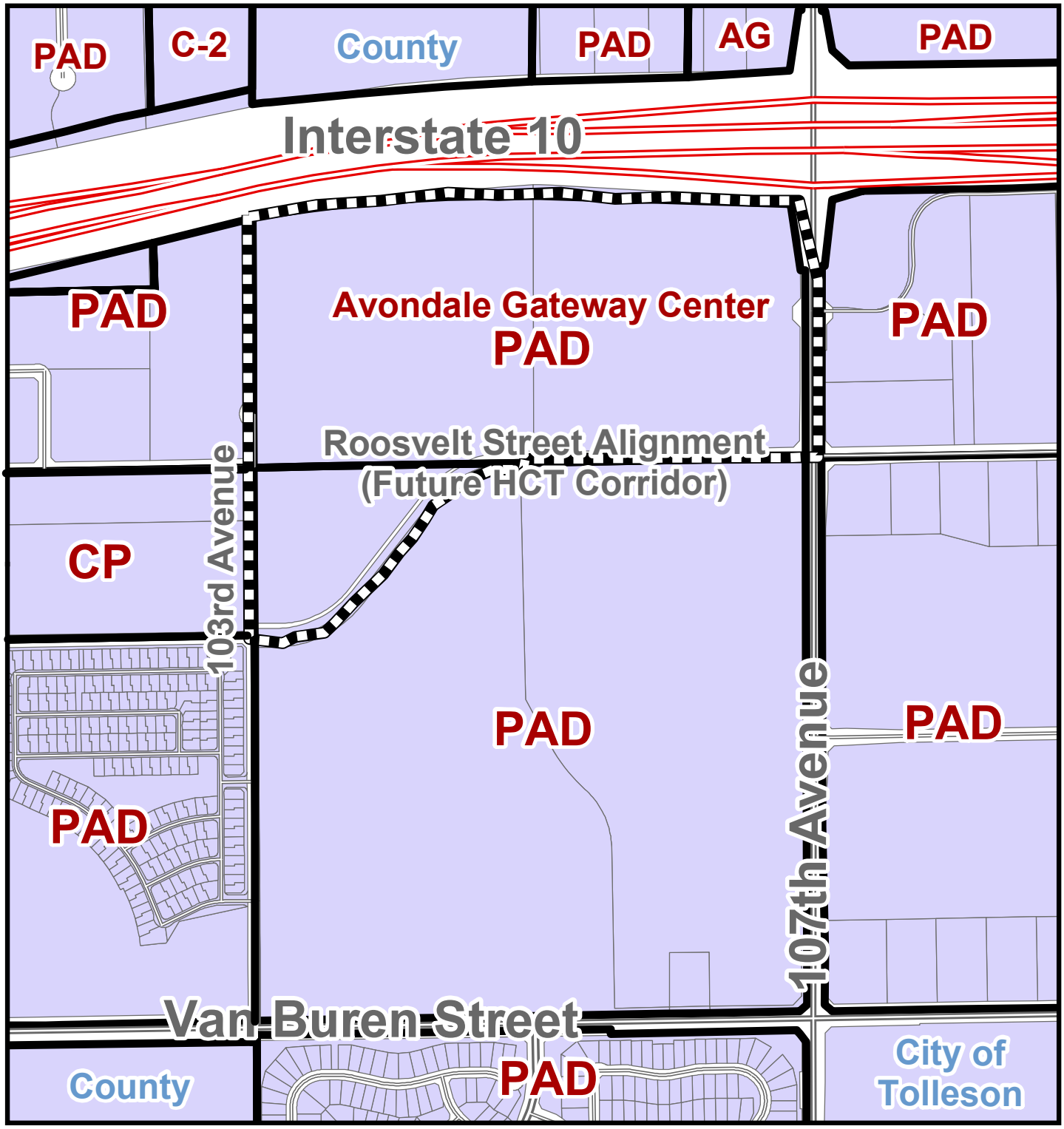


General Plan Land Use Map
Application PL-13-0156

Subject Property

- Freeway Commercial
- Mixed Use
- High Intensity Office
- City Center (All Hatched Areas)
- Business Park
- Local Commercial
- High Density Residential
- Medium High Density Residential
- Medium Density Residential

Exhibit B



Zoning Vicinity Map

Avondale

Subject Property

Exhibit C

Aerial Photograph

Avondale

Subject Property

Exhibit D

SUMMARY OF RELATED FACTS
APPLICATION PL-13-0156 AVONDALE GATEWAY CENTER PAD EXTENSION

THE PROPERTY	
PARCEL SIZE	Approximately 84 acres
LOCATION	SWC of Interstate 10 & 107th Avenue
PHYSICAL CHARACTERISTICS	Relatively flat property
EXISTING LAND USE	Agricultural field
EXISTING ZONING	Planned Area Development (PAD)
ZONING HISTORY	Annexed 3/17/1986, Rezoned to PAD 8/18/2008
DEVELOPMENT AGREEMENT	None

SURROUNDING ZONING AND LAND USE	
NORTH	Interstate 10 – freeway
EAST	PAD – Avondale Automall (retail)
SOUTH	PAD – Roosevelt Park Phase 2 (single-family detached residential) (vacant – farmland)
WEST	PAD – Avondale Gateway (hotels, restaurants) CP – owner "Rapid-Span USA" (vacant – farmland)

GENERAL PLAN
The property contains three General Plan 2030 Land Use designations. High Intensity Office abuts I-10, Freeway Commercial abuts 107th Avenue, and the remainder of the property is designated for Mixed Use on the General Plan Land Use Map. The property was previously designated as "Employment" by the General Plan 2002.

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Littleton Elementary School District Tolleson Union High School District
ELEMENTARY SCHOOLS	Littleton Elementary School
HIGH SCHOOL	Tolleson Union High School

UTILITIES
There is an existing 16" waterline and existing 15" sewer line in 107th Avenue. New lines will run under the public streets within the development to serve future users.

STREETS	
107th Avenue (West Half)	
Classification	Arterial
Existing half street ROW	60’
Required half street ROW	65’
Existing half street improvements	1 through lane, striped median, curb & gutter, street lights, and attached sidewalk.
Future improvements (CIP Project)	2 through lanes, landscaped median, bike lane, curb & gutter, sidewalk, landscaping, and street lights.
Roosevelt Street (Full Street)	
Classification	Major Collector
Existing full street ROW	0’
Required full street ROW	100’ (plus additional 30’-40’ for future HCT corridor)
Existing full street improvements	None
Standard full street improvements	2 through lanes, ½ median/turn lane, bike lane, detached sidewalk, curb & gutter, streetlights, and landscaping
Gateway Boulevard (Full Street)	
Classification	Minor Collector
Existing half street ROW	0’
Required half street ROW	80’
Existing half street improvements	None
Standard Collector improvements	2 through lanes, median/turn lane, 2 bike lanes, detached sidewalks curb & gutter, street lights, and landscaping
111th Avenue (Eastern Half)	
Classification	Minor Collector
Existing half street ROW	0’
Required half street ROW	40’
Existing half street improvements	None
Standard Collector improvements	1 through lanes, ½ median/turn lane, bike lane, detached sidewalk, curb & gutter, street lights, and landscaping
109th Avenue (Full Street)	
Classification	Minor Collector
Existing half street ROW	0’
Required half street ROW	80’
Existing half street improvements	None
Standard Collector improvements	2 through lanes, median/turn lane, 2 bike lanes, detached sidewalks, curb & gutter, street lights, and landscaping

Exhibit E

ORDINANCE NO. 1321-808

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 84 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 107TH AVENUE AND INTERSTATE 10, AS SHOWN IN FILENAME Z-07-16, REZONING SUCH PROPERTY FROM AGRICULTURAL (AG) TO PLANNED AREA DEVELOPMENT (PAD) AND IMPOSING CONDITIONS UPON SUCH CHANGE.

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

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

WHEREAS, the Commission held a public hearing on Thursday, July 17, 2008, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission recommended approval; and

WHEREAS, the City Council held a public hearing regarding the amendment to the Zoning Atlas on August 18, 2008.

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

SECTION 1. That + 84 acres of real property generally located at the southwest corner of 107th Avenue and Interstate 10, as shown in filename Z-07-16 (the "Property"), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned from Agricultural (AG) to Planned Area Development (PAD), subject to the following conditions:

1. Development shall conform to the Avondale Gateway Center PAD General Development Plan Narrative date stamped June 9, 2008 (the "Development Plan"), except as modified by these stipulations.

2. No building permits for retail uses within the Employment/Commercial sub-area of this PAD shall be approved unless building permits have been issued for an equal or greater square footage of building within the Office or Business Park sub-areas of this PAD or within the Business Park or Mixed-Use/Office sub-areas of the adjacent Avondale Gateway PAD (Z-05-5). The square footage of the existing Hilton Garden Inn and Homewood Suites hotels (APN 102-56-018) shall not count toward this requirement.

3. Development shall conform to the Avondale Design Manual for Commercial, Industrial, and Multi-Family Residential Development.

4. Within the Employment/Commercial sub-area, all retail building end-cap suites shall provide a west-facing customer entrance so as to maximize accessibility from the Office and Business Park sub-areas.

5. No more than one drive-through use shall be located adjacent to 107th Avenue. Up to two additional drive-through uses may be allowed within the Employment/Commercial subarea if they are located within the interior of the site and views from 107th Avenue are minimized by the strategic placement of other buildings.

6. Pedestrian scale lighting shall be provided within all plazas and similar pedestrian gathering areas within the Office sub-area.

7. Trees shall be planted between the curb and sidewalk within the right-of-way adjacent to all collector roadways, as displayed in Exhibit 9 of the Development Plan, overhead plan view. The cross-section view in Exhibit 9, which does not show trees between sidewalk and curb, shall be disregarded.

8. The PAD will be restricted to no more than 30% of medical office use per sub area as analyzed in the preliminary traffic study analysis.

9. Right-of-way shall be dedicated by Final Plat to the City as required by the then-current version of the City's adopted transportation plan. For reference purposes only, as of the date of this Ordinance, the required right-of-way dedications are as follows:

Street	**Right-of-way Widths Required**
107th Avenue	Arterial Half Street – 65 Feet
Corporate Drive	Major Collector Half Street – 50 Feet
Roosevelt Street	Minor Collector Full Street – 80 Feet
Gateway Boulevard	Minor Collector Full Street – 80 Feet
111th Avenue	Minor Collector Half Street – 40 Feet
109th Avenue	Minor Collector Full Street – 80 Feet

10. Prior to issuance of the first certificate of occupancy or certificate of completion for any building on site, the developer shall be required to construct all Phase 1 infrastructure improvements as shown in the revised phasing exhibit date stamped July 31, 2008. All improvements shall be completed per the then-current City of Avondale standards.

11. Prior to issuance of the first certificate of occupancy or certificate of completion for any building south of Gateway Boulevard having frontage on Corporate Drive, requiring access to Corporate Drive, or determined to be required as part of an earlier phase based on results of the traffic study submitted during master site plan review, the developer shall be required to construct all Phase 2 infrastructure improvements as shown in the revised phasing exhibit date stamped July 31, 2008. All improvements shall be completed per the then-current City of Avondale standards.

12. A full traffic impact study for the +/- 84 acre subject property will be required with the first master site plan submittal. Proposed phasing may change based on results of the traffic study.

13. Additional right-of-way may be required at the time of master site plan approval for intersections, turn lanes, decelerations lanes, bus pull-out bays, transit stops, and other site specific requirements based upon the results of the revised traffic study and the site plan application, as determined by the City Engineer. Construction of these improvements will be required with adjacent street improvements.

14. The Developer shall make a contribution to the City toward traffic signals will be determined based on results of the Traffic Impact Study, including required for 107th Avenue & Corporate Drive, and 107th Avenue & Gateway Boulevard, if warranted. In addition, if other signals are determined to be warranted or if a significant portion of site generated traffic impacts nearby traffic signals, additional cost contribution may be required. Also, the intersection of 107th Avenue & Gateway Blvd. may be too close to the I-10 interchange for a traffic signal and may be required to have restricted turning movements; final decision will be based upon the results of the revised traffic study and site plan application, as determined by the City Engineer.

15. The developer shall relocate the 69 KV power poles along 107th Avenue out of the ultimate right-of-way prior to issuance of the first certificate of occupancy or certificate of completion for any building within the Employment/Commercial sub-area. In the instance that the City's CIP project for 107th Avenue occurs prior to development in the Employment/Commercial sub-area, the developer shall reimburse the City the full cost required to relocate the 69 KV poles.

16. To the extent allowed by law, all Type 1 and Irrigation Grandfathered Groundwater Rights appurtenant to the property shall be properly extinguished and the resulting Assured Water Supply credits pledged to the City of Avondale's account at the Arizona Department of Water Resources prior to recordation of the final plat.

17. All irrigation ditches on site or in the right-of-way adjacent to the site to be replaced/tiled with an underground pipeline and relocated (if necessary), or abandoned subject to the approval of the irrigation company and downstream users, if any.

18. Minimum master plan size shall be 8 acres.

19. Service Stations and Auto Repair Facilities shall not be permitted within the Business Park sub-area.

20. Non-chartered financial institutions shall be prohibited.

21. There shall be a minimum separation of at least 165 feet between all freestanding signage.

SECTION 2. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, August 18, 2008.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED:

Andrew J. McGuire, City Attorney

890235.1

EXHIBIT A
TO
ORDINANCE NO. 1321-808

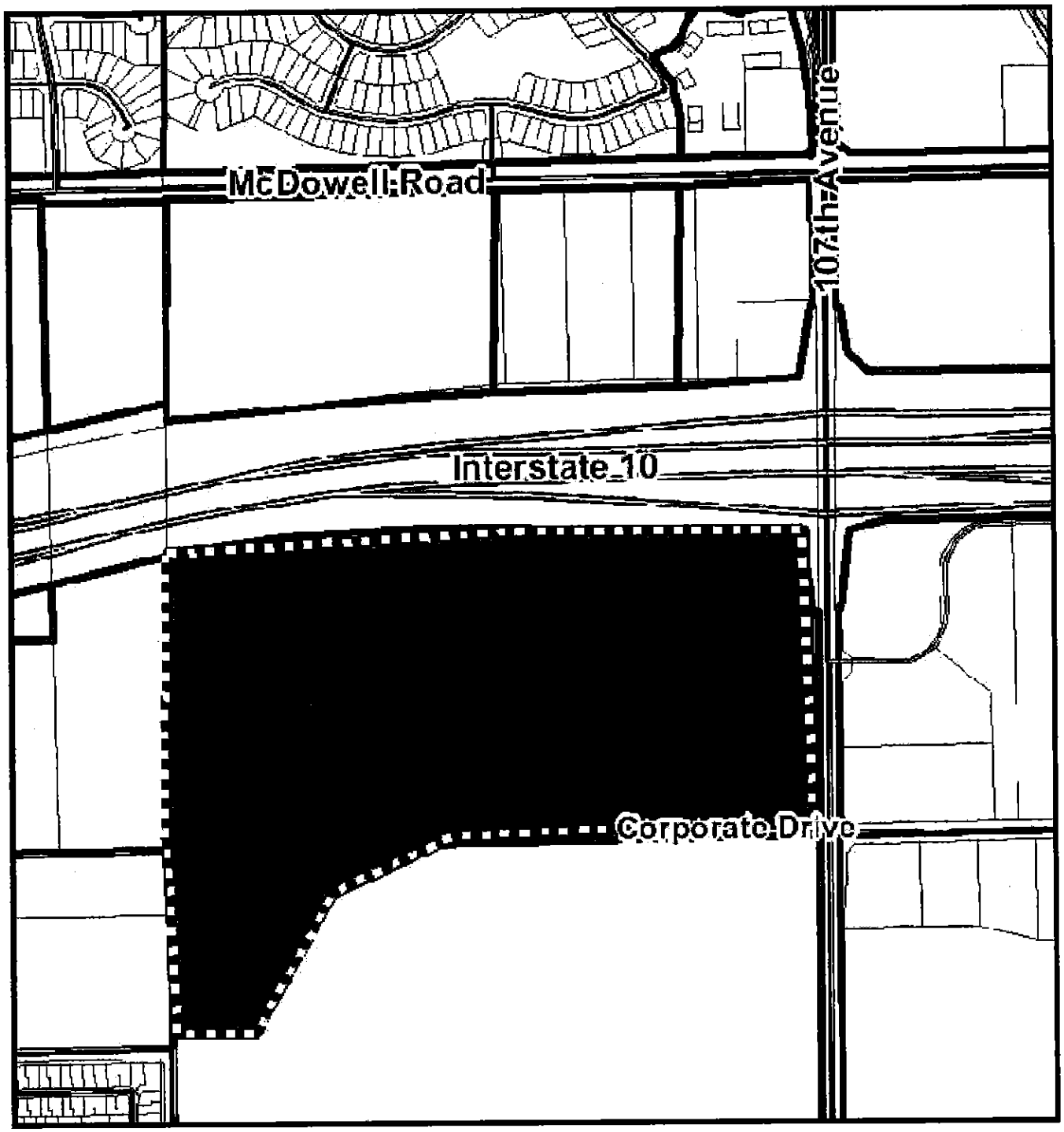
[Legal Description and Map of the Property]

See following pages.

Avondale Gateway Center
Legal Description

PARCEL NO. 1:
That portion of the Southeast quarter of Section 6, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:
Beginning at a 5/8 inch rebar found at the center of said Section 6 from which a City of Avondale brass cap in handhole found at the East quarter corner of said Section 6 bears North 88 degrees 46 minutes 43 seconds East 2628.24 feet;
Thence North 88 degrees 46 minutes 43 seconds East 966.57 feet along the North line of the Southeast quarter of said Section 6 to a point on a non-tangent curve concave to the Southeast whose radius bears South 27 degrees 59 minutes 10 seconds East 560.00 feet, said curve being the Northerly right of way line of Corporate Drive as deeded to the City of Avondale in Instrument No. 2007-0933123, Official Records of Maricopa County, Arizona;
Thence Southwesterly along the arc of said curve through a central angle of 24 degrees 01 minutes 00 seconds an arc length of 234.74 feet;
Thence South 37 degrees 59 minutes 50 seconds West 558.00 feet continuing along said Northerly right of way line to the beginning of a tangent curve to the right having a radius of 410.92 feet;
Thence Westerly along said curve to the right and along said Northerly right of way line, through a central angle of 51 degrees 30 minutes 43 seconds an arc length of 369.44 feet;
Thence South 89 degrees 30 minutes 33 seconds West 117.80 feet continuing along said Northerly right of way line to the West line of the Southeast quarter of said Section 6;
Thence North 00 degrees 29 minutes 20 seconds West 727.86 feet along said West line to the point of beginning.

PARCEL NO. 2:
That portion of the Northeast quarter of Section 6, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:
Beginning at a 5/8 inch rebar found at the center of said Section 6 from which a City of Avondale brass cap in handhole found at the East quarter corner of said Section 6 bears North 88 degrees 46 minutes 43 seconds East 2628.24 feet;
Thence North 00 degrees 29 minutes 20 seconds West 1161.06 feet along the West line of said Northeast quarter to a set ½" rebar with Cap marked RLS 42137 on the Southerly right of way of the Ehrenberg-Phoenix Highway;
Thence North 78 degrees 03 minutes 06 seconds East 53.22 feet along said Southerly right of way to an Arizona Department of Transportation Aluminum Cap marking the beginning of a non-tangent curve the center of which bears South 12 degrees 04 minutes 57 seconds East 7439.44 feet;
Thence Easterly along said Southerly right of way line and the arc of said curve through a central angle of 10 degrees 13 minutes 23 seconds, an arc distance of 1327.39 feet to its intersection with the Southerly line of that right of way deeded to the State of Arizona by instrument recorded in Instrument No. 92-0406971 Official Records of Maricopa County, Arizona;
Thence South 86 degrees 43 minutes 27 seconds East 1167.90 feet along said right of way line to an Arizona Department of Transportation Aluminum Cap;
Thence South 08 degrees 08 minutes 08 seconds East 276.57 feet along said right of way line to its intersection with the Westerly right of way line of 107th Avenue as deeded to the City of Avondale by instrument recorded in Instrument No. 04-1017218, Official Records of Maricopa County, Arizona;
Thence Southerly along said Westerly right of way line the following seven courses and distances:
Thence South 00 degrees 16 minutes 36 seconds East 200.36 feet;
Thence South 44 degrees 56 minutes 04 seconds West 42.89 feet;
Thence South 00 degrees 10 minutes 16 seconds East 60.00 feet;
Thence South 45 degrees 03 minutes 56 seconds East 50.46 feet;
Thence South 00 degrees 16 minutes 36 seconds East 302.57 feet;
Thence South 01 degrees 46 minutes 06 seconds West 140.12 feet;
Thence South 00 degrees 16 minutes 36 seconds East 88.67 feet to the Northerly right of way line of Corporate Drive as deeded to the City of Avondale in Instrument No. 2007-0933123, Official Records of Maricopa County, Arizona;
Thence Westerly along said Northerly right of way line the following five courses and distances:
Thence South 44 degrees 15 minutes 04 seconds West 42.79 feet;
Thence South 88 degrees 46 minutes 43 seconds West 820.30 feet;
Thence North 89 degrees 56 minutes 54 seconds West 450.11 feet;
Thence South 88 degrees 46 minutes 43 seconds West 50.00 feet to the beginning of a tangent curve to the left having a radius of 560.00 feet;
Thence Southwesterly along the arc of said curve through a central angle of 26 degrees 45 minutes 53 seconds an arc length of 261.59 feet to the South line of the Northeast quarter of said Section 6;
Thence South 88 degrees 46 minutes 43 minutes West 966.57 feet to the POINT OF BEGINNING.

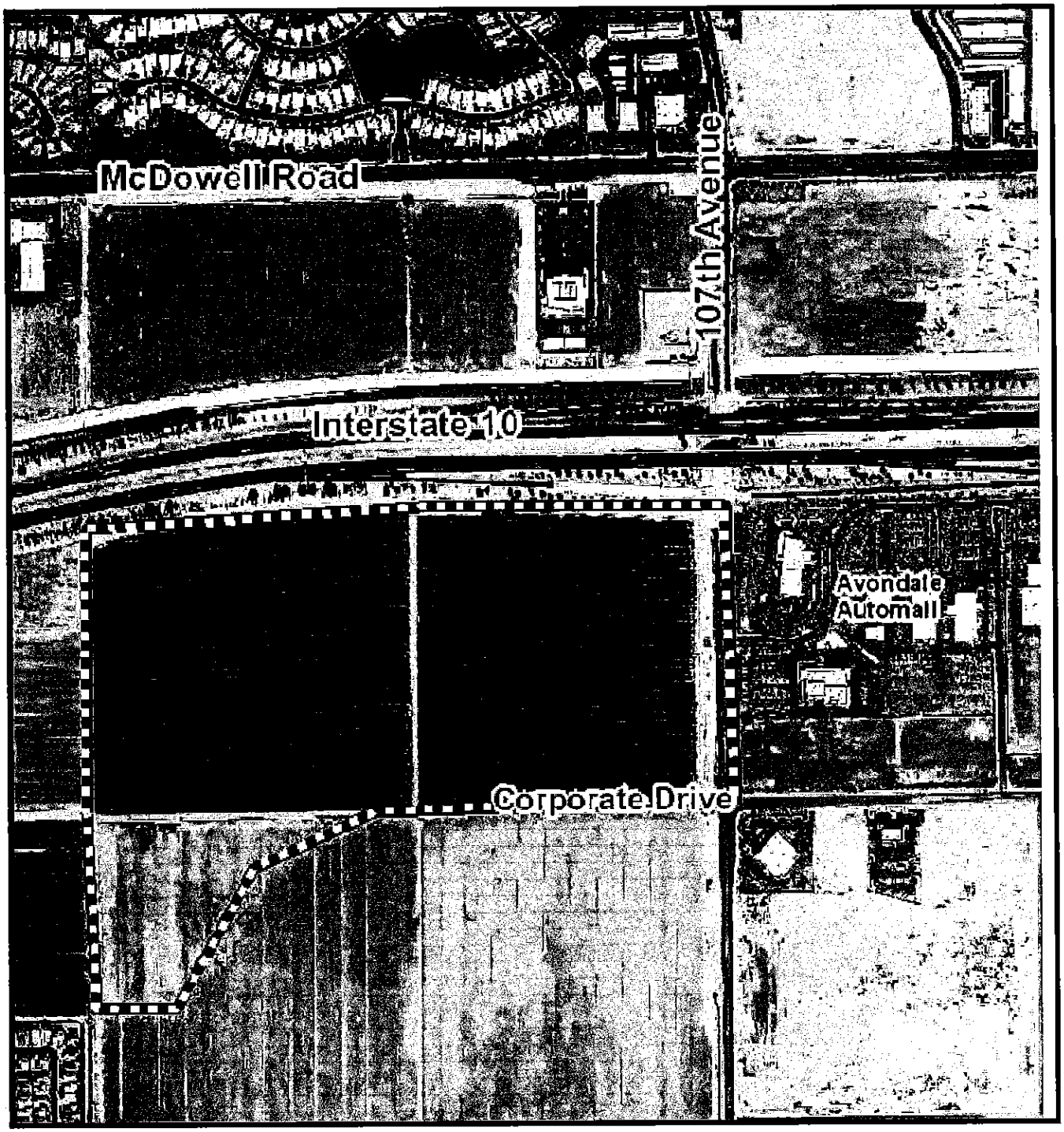


Application Z-07-16

Avondale

Subject Property

Exhibit B

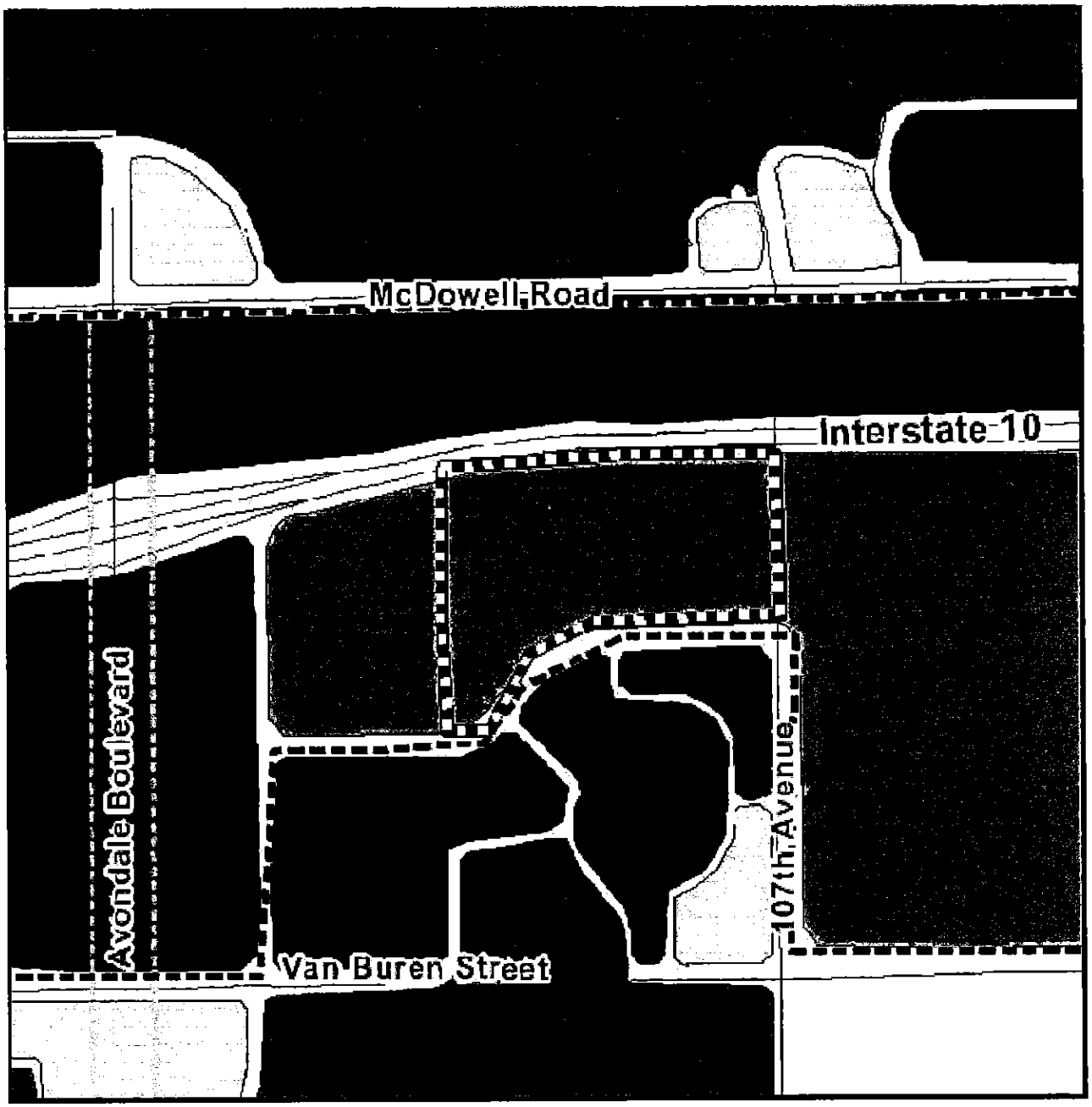


2008 Aerial Photo

Avondale

Subject Property

Exhibit C



General Plan Land Use Map

- Commercial Corridor, Commercial Corridor
- Growth Area, Growth Area
- Commercial
- Employment
- Freeway Commercial
- High Density Residential
- Low Density Residential
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property

Exhibit D

SUMMARY OF RELATED FACTS

APPLICATION Z-07-16

PARCEL SIZE	Approximately 84 acres
LOCATION	SWC Corner of 107th Ave. & Interstate 10
PHYSICAL CHARACTERISTICS	The site is relatively flat and contains no structures
EXISTING LAND USE	Vacant
EXISTING ZONING	Agricultural (AG)
ZONING HISTORY	Annexed on March 17, 1986; zoned AG in 1990
DEVELOPMENT AGREEMENT	None

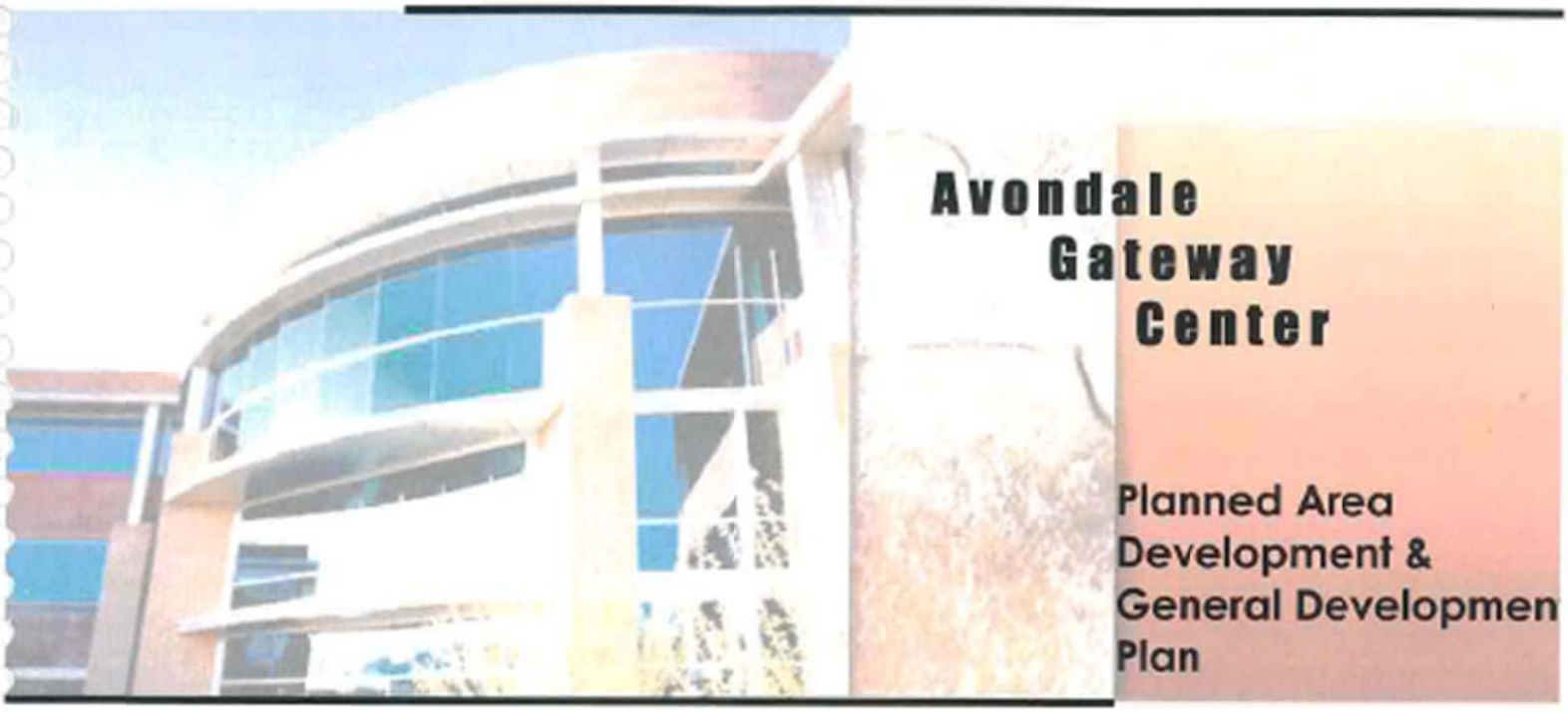
NORTH	Interstate 10
EAST	Avondale Automall PAD – Automobile Sales and Service
SOUTH	Rosevelt Park PAD – Mixed Use
WEST	Avondale Gateway - Mixed Use (Hotels, Restaurant, Retail, and Office)

Designated by General Plan land use map as Employment; subject parcel also falls within the boundaries of the Freeway Corridor Specific Plan.

SCHOOL DISTRICT(S)	Littleton Elementary School District Tolleson Union High School District
ELEMENTARY SCHOOL	Littleton Elementary School
HIGH SCHOOL	Tolleson Union High School

107th Avenue (West Half)	
Classification	Arterial
Existing half street ROW	60'
Required half street ROW	65'
Existing half street improvements	1 through lane, striped median, curb & gutter, street lights, and attached sidewalk.
Future improvements (CIP Project)	2 through lanes, landscaped median, bike lane, curb & gutter, sidewalk, landscaping, and street lights.
Corporate Drive (North Half)	
Classification	Major Collector
Existing half street ROW	0'
Required half street ROW	50'
Existing half street improvements	None
Standard Collector improvements	2 through lanes, ½ median/turn lane, bike lane, detached sidewalk, curb & gutter, street lights, and landscaping
Roosevelt Street – 111th Avenue to Corporate Drive (North Half)	
Classification	Minor Collector
Existing half street ROW	0'
Required half street ROW	40'
Existing half street improvements	None
Standard half street improvements	1 through lane, ½ median/turn lane, bike lane, detached sidewalk, curb & gutter, streetlights, and landscaping
Gateway Boulevard (Full Street)	
Classification	Minor Collector
Existing half street ROW	0'
Required half street ROW	80'
Existing half street improvements	None
Standard Collector improvements	2 through lanes, median/turn lane, 2 bike lanes, detached sidewalks curb & gutter, street lights, and landscaping
111th Avenue (Eastern Half)	
Classification	Minor Collector
Existing half street ROW	0'
Required half street ROW	40'
Existing half street improvements	None
Standard Collector improvements	1 through lanes, ½ median/turn lane, bike lane, detached sidewalk, curb & gutter, street lights, and landscaping
109th Avenue (Full Street)	
Classification	Minor Collector
Existing half street ROW	0'
Required half street ROW	80'

Exhibit F



84+/- Acres at the Southwest Corner of 107th Avenue & Interstate 10
Avondale, Arizona

DUE TO ITS SIZE, THIS DOCUMENT

HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

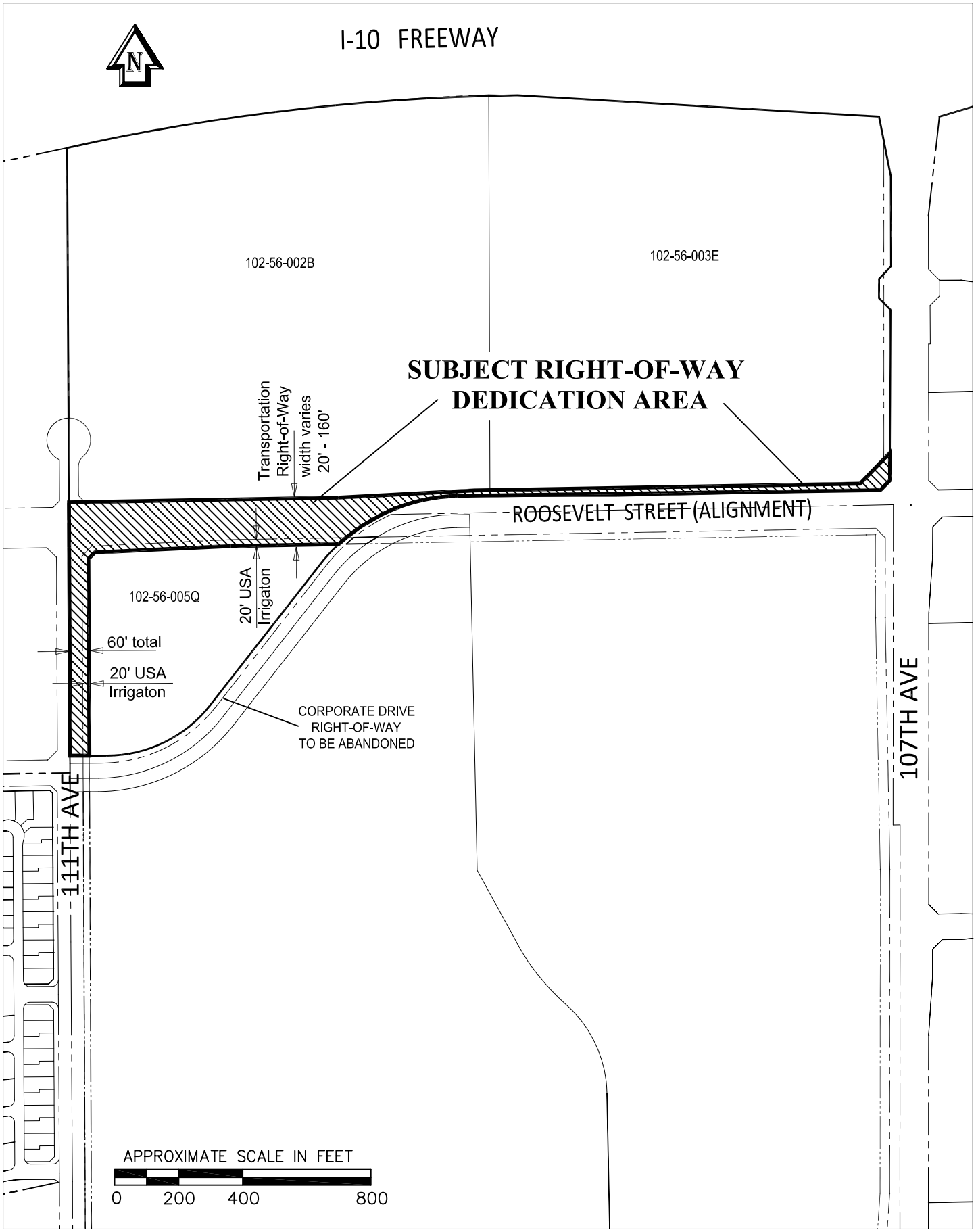
http://www.avondale.org/DocumentCenter/View/33323

CITY OF AVONDALE
JUN 9 2008
DEVELOPMENT SERVICES
2-07-16

311

Revised June 2008

Exhibit G



AVONDALE HOLDINGS
RIGHT-OF-WAY DEDICATION EXHIBIT

Exhibit H

PAD ZONING EXTENSION NARRATIVE

Location

- **Nearest intersecting streets of the property** – *107th Avenue, I-10, Roosevelt Street*
- **Size of the property (acreage)** – *84 acres*

History

- **Date annexed** – *March 17th, 2006*
- **Date zoned** – *Pad zoning in 2008 with no specific site plan submitted*
- **Subsequent action(s) with staff, the Planning Commission, or City Council after zoning to PAD. List all dates. Be sure to list all approvals** – *the property was annexed into the City of Avondale on March 17th, 1986. Upon adoption of the City's new zoning map in 1990, the Property was zoned AG (Agricultural). On August 18th, 2008, the Avondale City Council unanimously approved the Avondale Gateway Center PAD (Z-07-16) to allow for a regional office/employment/commercial development.*

Justification

- **Why wasn't the property developed within the three year allotment?** *The property was foreclosed last year – It is presently being marketed.*
- **Why will one more year make a difference?** *It is difficult to predict with certainty when the economic climate will allow development of the property. We do believe, however, that when market conditions in Arizona are ripe, this location is ideally suited to be successful.*
- **What step in the development process is the project in as of the date of this application?** *There is no active development on the property at this time.*
- **Provide a development schedule that shows how construction will be underway within the time period granted by the extension.** *The goal is to pursue updates for planning and design on the project. Due to less than ideal market forces, this may take some time.*
- **What steps have the property owner(s) taken to market the property since the original approval?** *The property has been marketed primarily through Real Estate Brokers. Interest has been spotty, in that uses such as retail/distributors and an amusement park were the most serious inquiries. The applicant is committed to the long term success of the development of the property.*

City Council Regular Meeting – Excerpt of Meeting Minutes
November 7, 2011

6 PUBLIC HEARING – TIME EXTENSION FOR AVONDALE GATEWAY CENTER PAD ZONING - ALTERNATIVELY ORDINANCE 1471-111 - ZONING REVERSION

A public hearing and a request by Mr. Mike Withey, Withey Morris PLC, for a one year extension of PAD zoning for Avondale Gateway Center, located on approximately 84 acres of land at the southwest corner of 107th Avenue and Interstate 10. Alternatively, City Council will consider an ordinance reverting the zoning from PAD zoning to its previous zoning classification of Agricultural (AG).

Eric Morgan, Planner II reviewed the particulars of this item as more specifically described in the Council report. Regarding the high capacity transit corridor, Mr. Morgan explained that the alignment that had been proposed is not part of the City's transit plan so the City would need to abandon the right of way that is already there. He added that should the applicant request another extension next year they would be required to dedicate 100 ft of right of way for a major collector plus an additional 30 ft of right of way for high capacity transit.

Charlie McClendon clarified that the high capacity transit is designated in the 2030 General Plan, so whenever this property develops it will be required to dedicate the necessary right of way.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to approve the request for a one year extension of PAD zoning for Avondale Gateway Center. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 6-0.

City Council Regular Meeting – Excerpt of Meeting Minutes
September 17, 2012

6 PUBLIC HEARING – ZONING EXTENSION FOR AVONDALE GATEWAY CENTER PAD (PL-12-0153)

A public hearing and consideration of a request by Mr. Marcos Ergas, The Ergas Group, for a one year extension of PAD zoning for Avondale Gateway Center, located on approximately 84 acres of land at the southwest corner of 107th Avenue and Interstate 10.

Ken Galica, Planner II reviewed the particulars of this item as more specifically described in the council report. He indicated staff is recommending approval of the application subject to the following conditions:

1. In order to conform to current City transportation and development plans, the alignment of Corporate Drive adjacent to this property needs to be abandoned and the Roosevelt Street alignment needs to be extended from Avondale Gateway east to 107th Avenue (Exhibit H). The approved roadway section for Roosevelt Street is COA Std. Det. A1004 (modified). The modification includes an additional 30' of right-of-way width to accommodate a future transit corridor. This yields a total required right-of-way width of 130'. In order to accommodate this need for the Avondale Gateway Center PAD extension, the following shall occur no later than September 18, 2012:

    a. The City shall abandon all right-of-way previously dedicated as Corporate Drive.
    b. The applicant shall dedicate the full half-street right-of-way of 65' along the southern parcel line of Parcel 102-56-003E.
    c. The applicant shall dedicate the full half-street right-of-way of 65' along the southern parcel line of Parcel 102-56-002B.
    d. The applicant shall dedicate the full half-street right-of-way of 65'along the northern parcel line of Parcel 102-56-005Q
    e. The applicant shall dedicate the full half-street right-of-way of 40'along the western parcel line of Parcel 102-56-005Q.
    f. If not already dedicated, the applicant shall dedicate the full half-street right-of-way of 40'along the western parcel line of Parcel 102-56-002B.
    g. Right-of-way triangles shall be per City of Avondale General Engineering Requirements Manual.
    h. All dedicated rights-of-way shall include an additional 8' width for Public Utility Easements.

    Dedications in addition to the above, may be necessary to accommodate undergrounding irrigation lines and utilities as determined by the utility authorities.

2. The last sentence in paragraph 5 of page 10, which requires City Council approval of each Master Site Plan, and the last paragraph (paragraph 6) of page 10, which requires Planning Commission review and City Council approval of changes to a Master Site Plan, are both struck and deleted from the Development Plan document. Master Site Plans shall be reviewed and approved administratively by staff.

Council Member McDonald asked when the property was acquired after the foreclosure it went through. Mr. Galica indicated it was sold in May. Council Member McDonald indicated that should another extension be sought next year, he would like to see an extensive explanation as to what has been done to date with respect to the property.

In response to a question from Council Member Weise, Mr. Bryan Lee spoke on behalf of the property owner and indicated the PAD helps market the property, but the market will dictate development.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Council Member Weise moved to approve the application PL-12-0153, a request for a one year extension of PAD zoning for Avondale Gateway Center through September 18, 2013, subject to the two staff recommended stipulations. Council Member McDonald seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Exhibit K

I-10 Freeway Corridor: Avondale Boulevard to 99th Avenue

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Ordinance 1530-1013 – PAD Zoning Reversion for Papago Commerce Center

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Tracy Stevens, Development and Engineering Services Director (623) 333-4012

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

REQUEST: Hold a public hearing and revert the zoning of the Papago Commerce Center PAD to Agricultural (AG).

PARCEL SIZE: Approximately 11.1 Gross Acres

LOCATION: Southeast Corner of El Mirage Road and Interstate 10 (Exhibits A, B, and C)

APPLICANT: City of Avondale

OWNER: iStar Financial

BACKGROUND:

The property was annexed into the City of Avondale on July 2, 1984 and was subsequently rezoned from AG (Agricultural) to Planned Area Development (PAD) on October 15, 2007 (Exhibits D, E, and F). The Papago Commerce Center PAD required development of the site in accordance with the uses and requirements of the Commerce Park (CP) Zoning District. The development plan proposed a mix of uses including office and fully enclosed light industrial, as well as a few limited retail/commercial uses.

On December 6, 2010, the City Council denied application PL-10-0100, a request to extend the PAD zoning for one year (Exhibit G). On February 22, 2011, the City Council reconsidered that extension request and continued the item to the March 7, 2011 Regular Meeting (Exhibit H). On March 7, 2011, City Council granted the first of four permitted one-year extensions of the Papago Commerce Center PAD, extending the validity through November 15, 2011 (Exhibit I). A second extension, extending the validity of this PAD through November 15, 2012, was approved by the City Council on January 17, 2012 (Exhibit J). With no additional extension requests or development of the property occurring, the PAD expired on November 15, 2012.

On August 19, 2013, the property owner (IStar Financial) was mailed a certified letter (Exhibit L) stating that the City Council would hold a public hearing to consider reverting the PAD zoning of the property back to AG at the October 21, 2013 Meeting. The letter was delivered to the address on file with the Maricopa County Assessor on August 22, 2013.

SUMMARY OF REQUEST:

This is a request to amend the zoning map to revert the zoning classification from PAD back to the previous zoning, AG. Section 603.D of the Zoning Ordinance requires that development of the first phase commence within three years of rezoning to PAD. If the 3 year time condition expires without development, and no extension is granted by City Council, the PAD zoning is subject to reversion to the previous zoning. On November 15, 2012, the second extension approved by City Council

expired without development occurring or a third extension being sought. As such, the property's zoning is eligible for reversion.

PARTICIPATION:

Public notifications are not required for PAD Reversions.

PLANNING COMMISSION ACTION:

The Planning Commission does not review PAD Reversions.

ANALYSIS:

The General Plan 2030 was approved by voters on August 28, 2012. As part of the update, the General Plan land use designation of the subject property was changed from "Employment" to "High Intensity Office" due to the property's strategic location adjacent to I-10 and within close proximity to the planned Roosevelt Street high capacity transit corridor (Exhibit C). Additionally, an update to the Freeway Corridor Specific Plan (FCSP) was approved on September 16, 2013. In furtherance of the goals of the General Plan, and to ensure development of sufficient intensity to warrant future transit service, the updated FCSP places a mandatory minimum development threshold of 1.5 FAR on the subject property (Exhibit K). The Papago Commerce Center PAD, which was modeled after the adjacent Avondale Commerce Center and was likely to result in development of a similar intensity, no longer fits within the City's vision for the I-10 and transit corridor. To develop the property in the future, a rezoning in accordance with both the General Plan 2030 and Freeway Corridor Specific Plan will be required.

The subject property was rezoned from AG to PAD on October 15, 2007 and two separate one-year extensions were approved extending the validity of the Papago Commerce Center PAD through November 15, 2012. The property did not develop in the allotted time period, however, and, as such, it is eligible for reversion under the terms of Zoning Ordinance Section 603.D. The property owner has been notified by certified letter that the City Council would hold a public hearing to consider whether to revert the zoning on the property back to AG on February 22, 2011.

Conclusion:

The Papago Commerce Center PAD expired on Nov. 15, 2012. Staff recommends reverting the property's zoning to AG (Agricultural), from which the property can be rezoned at a later date to ensure development in conformance with the General Plan 2030 and Freeway Corridor Specific Plan.

FINDINGS:

1. The property was zoned to PAD on October 15, 2007, conditioned upon commencing development of the first phase of development within three years of the effective date, or November 15, 2010.
2. A one-year extension was approved by City Council on March 7, 2011, extending the validity of the PAD through November 15, 2011.
3. A second one-year extension was approved by City Council on January 17, 2012, extending the validity of the PAD through November 15, 2012.
4. Commencement of the first phase of development did not occur prior to November 15, 2012, or afterward.
5. The applicant did not request a third extension prior to the PADs expiration.
6. Section 603 of the Zoning Ordinance provides for the City Council, at its sole discretion, to revert the zoning on the property to its previous zoning classification after expiration of the time condition to commence development.
7. The previous zoning classification of the property was Agricultural (AG).
8. The Papago Commerce Center PAD does not reflect the City's vision for development in proximity to the I-10 freeway or transit corridor, as identified in the General Plan 2030 and

Freeway Corridor Specific Plan.

RECOMMENDATION:

Staff recommends that the City Council adopt an Ordinance **APPROVING** application PL-13-0148, a request to revert the zoning of the expired Papago Commerce Center PAD to Agricultural (AG).

PROPOSED MOTION:

I move that the City Council accept the findings and **ADOPT** the Ordinance approving application PL-13-0148, a request to revert the zoning of Papago Commerce Center from Planned Area Development (PAD) to its previous zoning classification of Agricultural (AG).

ATTACHMENTS:

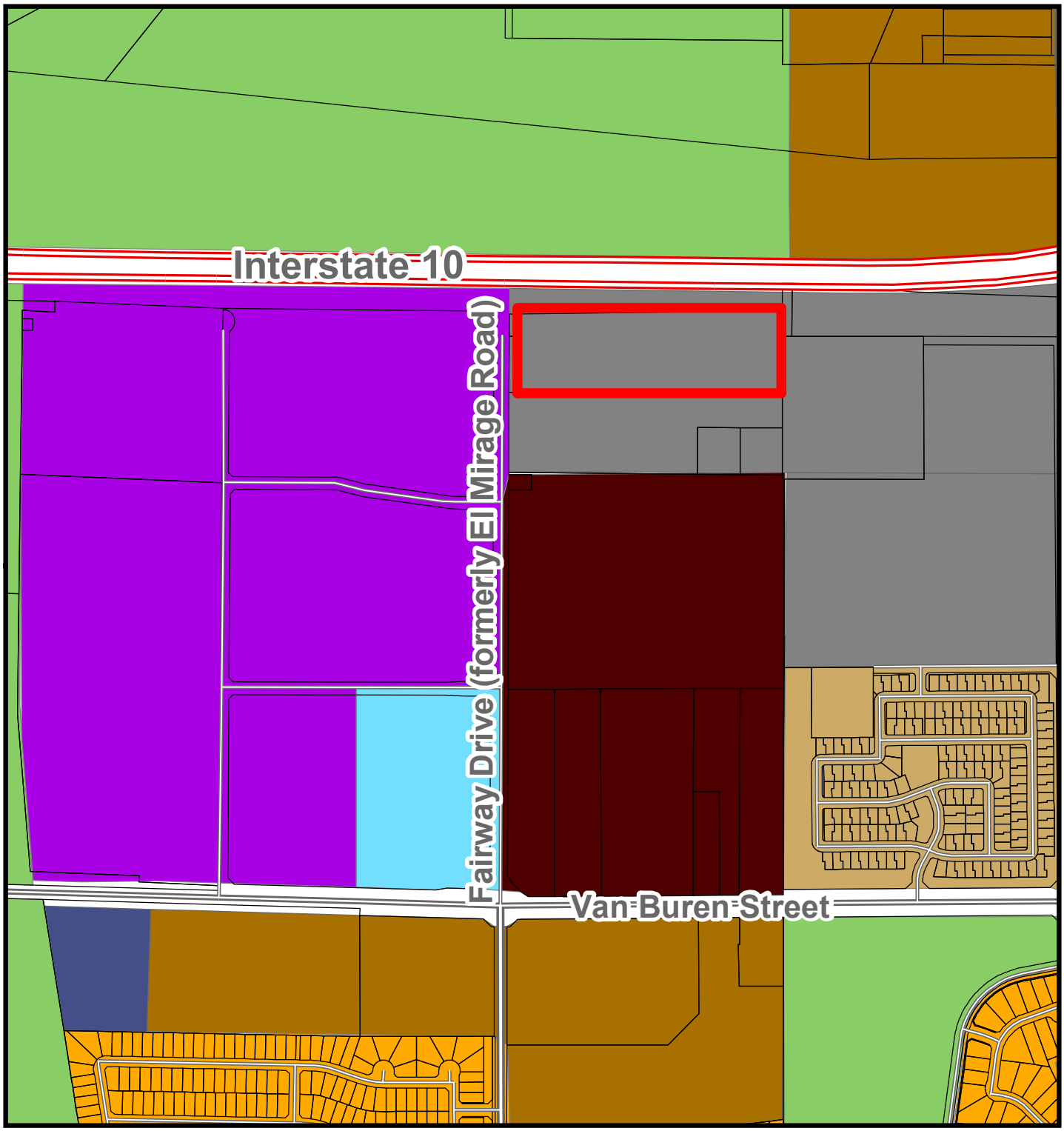
Click to download

- Exhibit A - General Plan 2030 Land Use Map
- Exhibit B - Zoning Vicinity Map
- Exhibit C - Aerial Photograph
- Exhibit D - Expired Papago Commerce Center PAD Development Plan and Program
- Exhibit E - Ordinance 1272-1007, approving the Papago Commerce Center PAD
- Exhibit F - Excerpt from City Council Minutes, Regular Meeting of October 15, 2007 (PAD Approval)
- Exhibit G - Excerpt from City Council Minutes, Regular Meeting of December 6, 2010 (Denial of 1st Extension)
- Exhibit H - Excerpt from City Council Minutes, Regular Meeting of February 22, 2011 (Reconsideration of 1st Extension)
- Exhibit I - Excerpt from City Council Minutes, Regular Meeting of March 7, 2011 (Approval of 1st Extension)
- Exhibit J - Excerpt from City Council Minutes, Regular Meeting of January 17, 2012 (Approval of 2nd PAD Extension)
- Exhibit K - Excerpt of Freeway Corridor Specific Plan relating to minimum FARs on the subject property
- Exhibit L - Certified Notice of Reversion sent to property owner, dated August 19, 2013
- Ordinance 1530-1013

PROJECT MANAGER:

Ken Galica, Planner II (623) 333-4019

Exhibit A

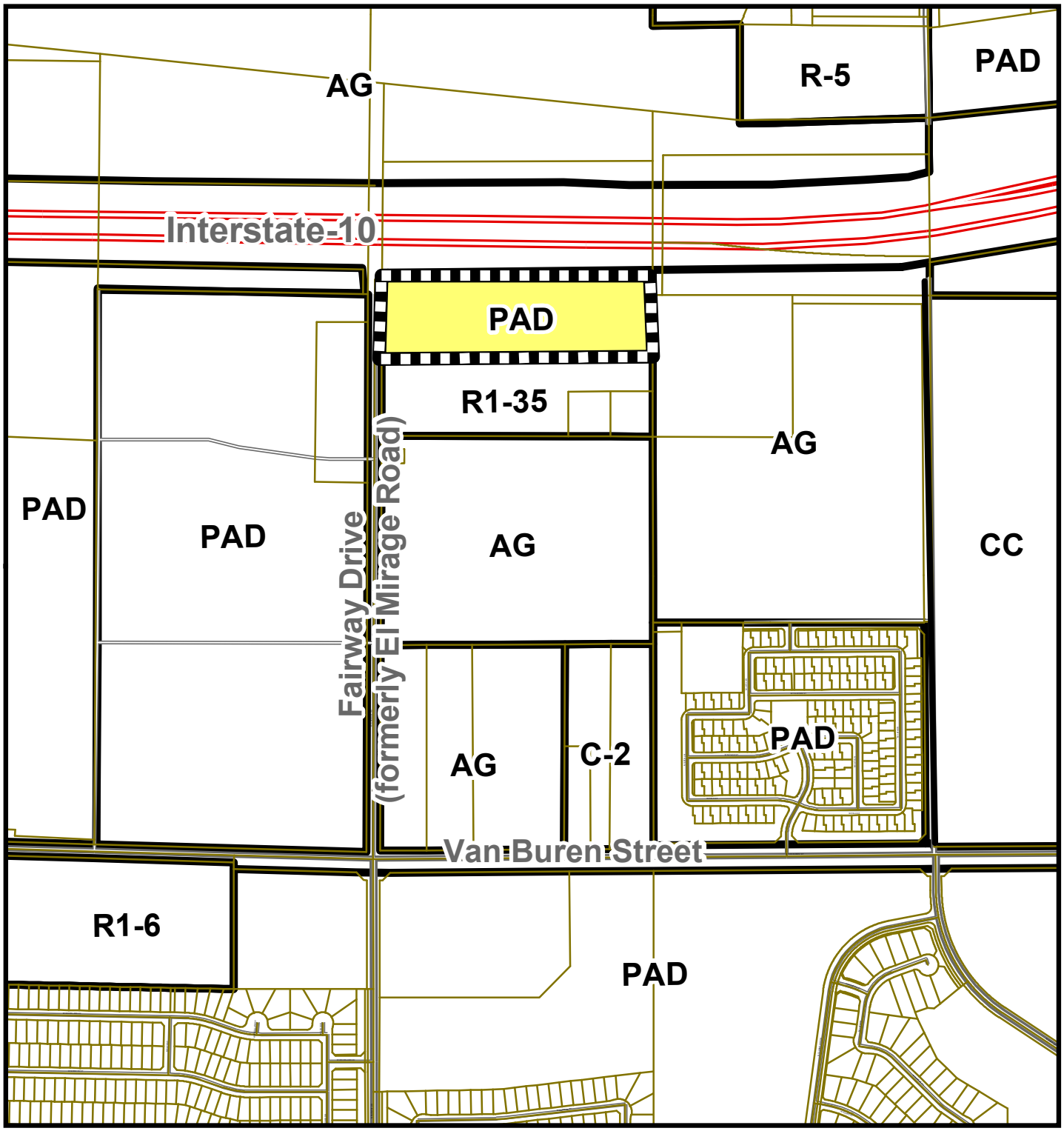


General Plan Land Use Map
Application PL-13-0148

Subject Property

- High Intensity Office
- Urban Residential
- Business Park
- Education
- Open Space
- Public/Civic
- High Density Residential
- Medium High Density Residential
- Medium Density Residential

Exhibit B

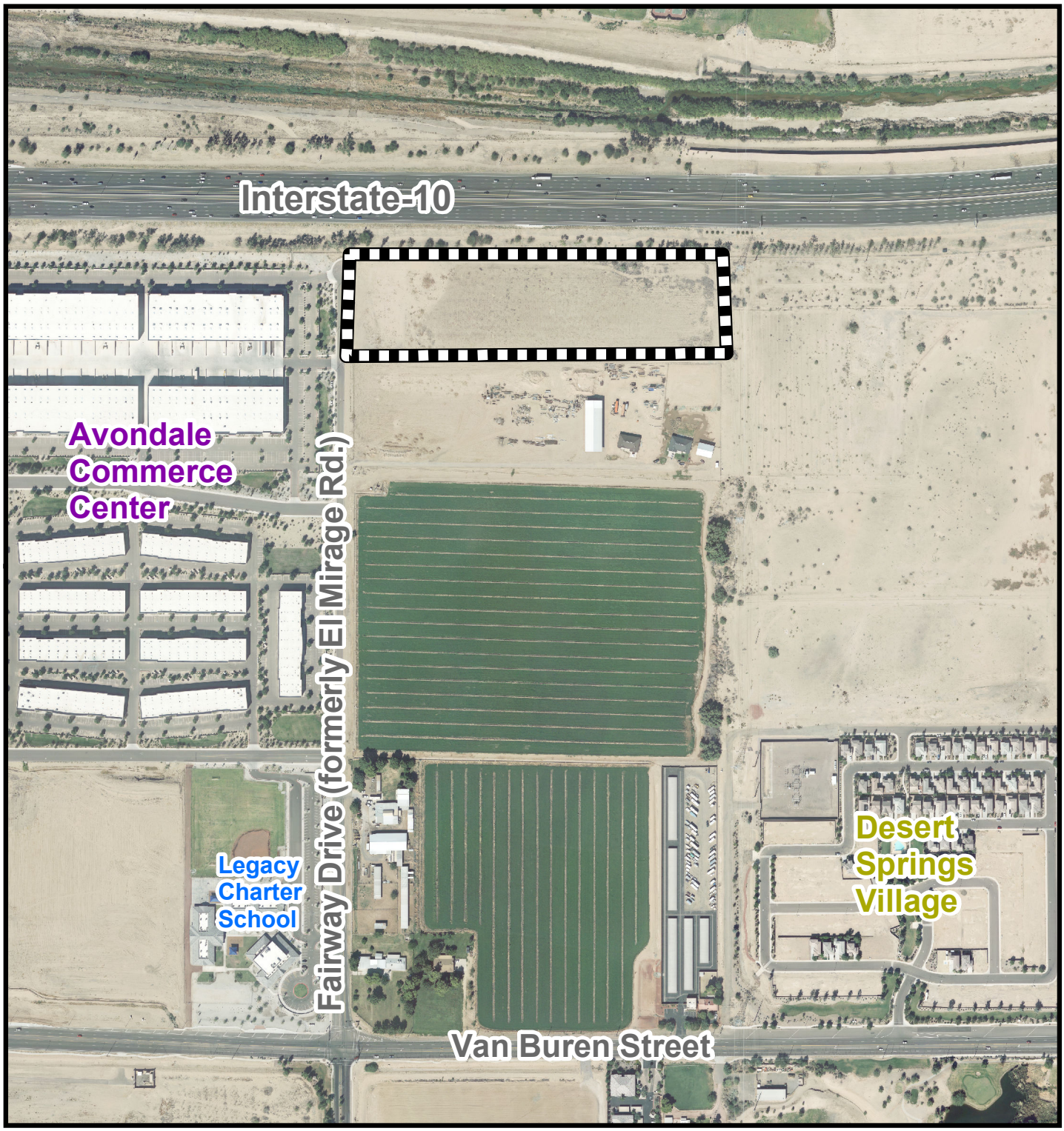


Zoning Vicinity Map

Avondale

Subject Property

Exhibit C



Aerial Photograph

Subject Property

Exhibit D

A PLANNED AREA DEVELOPMENT
BY
RDB MANAGEMENT
AND CONSTRUCTION

PAPAGO COMMERCE CENTER

11 ACRES

[illegible] E. ARIZONA

GENERAL DEVELOPMENT PLAN

APRIL 19, 2007
JUNE 29, 2007
AUGUST 8, 2007

2-63-5

A. Introduction

This General Development Plan and Program provides a project overview of the Planned Area Development (PAD), proposed by RDB Management and Construction, (RDB) for an approximate 11 acre parcel of land located quarter mile north of Van Buren along 127th Avenue in Avondale, Arizona (Property). Refer to Exhibit 'A' for the location of this subject property. This General Development Plan and Program is intended to provide the City of Avondale Planning and Building Division with the information necessary to review and approve the requested rezoning to PAD.

1. Site Ownership

This Property is owned by Avondale Commerce Center, LLC.

2. Site Data

The site for this proposed project is located north of Van Buren along El Mirage Road and I-10 in Avondale, Arizona, as shown on the location map enclosed as Exhibit A. The Property is comprised of a gross site area of approximately 11 acres. Refer to Exhibit 'B' for a copy of ALTA Survey.

3. Existing Site Conditions / Topography

The site is currently vacant with no agricultural production. There are no existing structures on-site. The topography of the site is fairly level with a slight but even grade sloping to the southwest.

4. Surrounding Land Uses

North: Arizona Department of Transportation (ADOT) right-of-way for Interstate 10 parallels the north property line. The freeway traffic is elevated approximately 10' above the property. El Mirage, forms the western boundary of the property, which terminates in a Cul-de-sac at the ADOT right-of-way. The land area along the north side of the interstate is Friendship Park, a community Park for Avondale, which includes lighted fields for baseball, softball, and soccer.

West: The area to the west is the newly constructed Avondale Commerce Center. A multi-building commercial center developed by this applicant. Phases II and III of this project, currently under construction, will accommodate Commerce Park type uses. Phase I, located further south along the Van Buren frontage, will accommodate commercial uses, including some retail.

South: The land area directly south is unimproved, has no structures and is being used for agriculture.

East: The land directly east of the proposed development is unimproved, has no structures and is being used for agriculture.

Refer to Exhibit 'C', for additional information regarding land uses and zoning.

B. Objectives / Development Goals

Rezone to PAD (Planned Area Development)

The property, 11 acres, is zoned Agricultural - AG, refer to Exhibit 'B'. RDB intends to rezone the property to PAD for an employment based project that includes Commerce Park uses in conformance with the Avondale General Plan and the Freeway Corridor Specific Plan. This land use plan provides flexibility for future employment based on demand within the marketplace.

The subject property is situated within the Freeway Corridor Specific Plan, a designated growth area as referenced by the Avondale General Plan. Recent growth in the west valley as demonstrated by Coldwater Springs, a master-planned residential community to the south, has focused more attention on the Freeway Corridor area.

C. Conformance with City of Avondale's General Plan

The City of Avondale General Plan has designated this property for Employment Use. Included in the "Employment" designation are land uses related to business parks and industrial parks.

D. General Development Plan

1. Project Description

In accordance with the General Plan, this project is designed to offer a mix of commercial and industrial activities as provided within the Commerce Park (CP) district. These uses will be combined within the Planned Area Development in order to provide a more cohesive development that will offer common design standards for each land use.

Guidelines will be established to unify the architecture, signage, and landscaping throughout the development. The land plan takes advantage of the site's proximity to I-10 to provide a well designed multi-tenant commerce park that will provide many employment opportunities for local residents as well as provide added tax revenue for the City of Avondale.

2. Land Use Plan

The General Development Plan is enclosed as Exhibit 'D'. The land uses are organized to promote compatibility with surrounding land uses, provide appropriate transitions between the commercial and commerce park users, and provide efficient access and circulation throughout the project. The project is designed with minimal vehicular penetration points in order to safely and conveniently move commercial traffic into and out of the project while minimizing the traffic impact upon the surrounding streets. The streetscape will be designed to provide variety and interest as one drives adjacent to the development.

Land Use Summary

Commerce Park, CP	11 acres

It is anticipated that uses in the Pagago Commerce Center shall be similar to those in the Avondale Commerce Center to the west.

3. Commerce Park (CP)

The property will be designated as Commerce Park. The purpose of the Commerce Park district is to allow for a wide variety of employment uses that are not included in a typical CO, C-1 or C-2 district.

Note: All structures and improvements designated within this PAD, designated as CP will be designed and constructed by RDB Management and Construction. RDB will maintain the buildings and lease suites to future tenants.

E. DEVELOPMENT STANDARDS

1. Commerce Park (CP)

The commerce park development will be a fully master planned site consisting of multiple buildings providing flex-space for multiple and individual tenants. The Property will ensure a well designed streetscape, adequate on and off-site auto circulation, encourage pedestrian travel through carefully planned walkway systems, and create a common architectural interest from transition in scale to the building materials that will add visual appeal and serve an overall function of the development. The commerce park will posses an overall design framework that provides an internal organizational structure and contextual response to the surrounding area. Vehicular traffic shall access the site via El Mirage paralleling the west property line. Vehicles will be able to access Avondale Commerce Center I to the west via El Mirage road. Pedestrian traffic shall be able to move between commerce centers on a series of sidewalks and clearly indicated pathways within the developments of similar materials that tie the Commerce centers together.

1a. Permitted Uses

a) Offices for professional, administrative, clerical and sales services including
b) Business colleges.
c) Research, Medical and dental laboratories
e) Wholesaling including but not limited to, irrigation, landscape, material sales provided all supplies and equipment are in a completely enclosed building.
f) "Value added" distribution / packaging – hands-on modification of bulk goods by employees that adds additional value to the products (ie. but not limited too, customized embroidery of sports apparel). Job creation is an important component of this use.
g) Light manufacturing, fabrication, processing, or assembly of finished or unfinished products composed of pre-manufactured or natural products or materials provided that all processes are conducted indoors.
h) Retail commercial operations directly related to a primary industrial use, provided it does not exceed 30% of the gross floor area of the primary industrial use.
i) Print and sign manufacturing with sales.
j) Similar uses as determined by the City's Zoning Administrator, or his designee.

- Warehousing/storage that is ancillary to a permitted use. Not to include dead vehicle storage, trucking companies and moving storage companies.

- Any use not expressly allowed herein is prohibited

1b. Uses Permitted pending City of Avondale Conditional Use Permit Approval

a) Athletic and health clubs
b) Trade school
c) Retail commercial operations directly related to a primary industrial use, provided it does not exceed 40% of the gross floor area of the primary industrial use.
d) Indoor Recreation facilities (ie laser tag, rock wall climbing, etc)

1c. General Requirements

Except where otherwise explicitly stated, this development shall conform to all requirements of the City of Avondale zoning ordinance, as amended, for development within Commerce Park (CP) zoning.

1d. General Standards

Minimum Setbacks

Front Yard:	25'
Street Side Yard	25'
Side Yard	12'
Rear Yard	12'

Interstate 10

A 30' landscape area shall be provided along the north property line of the project nearest to Interstate 10.

Maximum Building Height

a) Maximum building height of any buildings shall be (45) feet. The additional height allowance is intended to attract larger corporate users along this interstate freeway frontage.

Outdoor Storage

a) No outdoor storage shall be permitted.

F. DESIGN STANDARDS

1. Architecture

1a. Architectural Design Theme

While no particular style will be dictated, architectural standards for the development shall remain high while complimenting and drawing from the design and material palettes of the Avondale Commerce Center, directly west. The concept is for these buildings to be recognized as an integral part of the greater Avondale Commerce Center.

1b. Architectural Concepts

- The architectural design for all structures shall be based on "4-sided" architecture solutions, taking into consideration all sides to receive consistent architectural treatment.

- For all buildings at least two of these elements shall repeat horizontally. Buildings with facades greater than 150 feet in length shall include at least three of the elements listed below, repeated at appropriate intervals, both horizontally or vertically:
    - Color change. Recognizable, but not strongly contrasting.
    - Texture change
    - Material change
    - Architectural variety and interest through a change in plane such as offsets, reveals, archways or projecting ribs.

- Wall plane projections or recesses

- Variations in rooflines or parapets shall be used at a minimum of two feet (2') to reduce the scale of the buildings. Roof size, shape, material, color and slope shall be coordinated with the scale and theme of the building.

- Service and exit doors shall be integrated into the architecture of the elevations.

- Service and roll-up doors shall be internalized within the site.

- Reduction of building mass shall be achieved by using a combination of the following techniques:
    - Variation in the rooflines
    - Use of protected and recessed entries
    - Use of vertical elements on or in front of expansive blank walls
    - Use of pronounced wall plane offsets and projections
    - Use of focal points and vertical accents

- Inclusion of windows on elevations facing streets and pedestrian areas.

- Rooflines, relative building heights, orientation of entrances and other major architectural elements of the buildings shall be designed within the context of the overall PAD. Building design shall compliment the surrounding area, with contrast encouraged where appropriate or beneficial to the overall development

- Buildings with freeway frontage will front towards Interstate 10.

- Roof drains shall be internal.

- Any roof access ladders shall be located inside the building.

- All roof mounted equipment, vents, stacks, pipes, etc. shall be screened from view from all perimeter streets and painted to match the roof.

1c. Building Materials

Architectural materials should convey an image of quality and durability. Buildings within the PAD shall be compatible with the materials used in Avondale Commerce Center Phase One and will include the following materials :

- Primary building materials shall include: common clay brick, stucco, or EIFS type systems provided that finishes must be smooth or sand textured, smooth or split face concrete block or similar materials.
- All tilt or pre-cast concrete panels or smooth face block shall include methods for improving the natural material such as: additional color and texture, windows, reveals or recesses, notched parapets, canopies, building wall undulation, corner windows, additional materials, etc.
- Accent materials shall include: natural stone, block, brick, ceramic tile, ornamental steel or other similar materials as implemented in Phase One.
- Roofs may be flat with parapet walls, or sloped with concrete tile, standing metal seam, or equivalent architectural materials.

Prohibited Materials:

- Wood, except for limited amounts of trim
- Corrugated metal and pre-engineered metal-sided buildings

1d. Color Coordination

Buildings within the PAD shall be consistent with the following building colors:

- Colors and materials should be used to create visual harmony within the PAD. The approved colors are as follows:
  - Primary building colors shall be desert hues and other "earth tones" muted shades of blues, greens, and reds found in the natural desert, and colors appearing in natural stone.
  - Accent colors on buildings shall compliment the primary building colors and include combinations of desert hues, earth tones, muted shades of greens, reds, and colors found in natural stone. Brighter colors such as orange, red, blue, green, yellow, purple and similar colors may be used as accents as determined during the Site Planning process.

Prohibited Colors:

- "Loud colors" such as orange, red, blue, green, yellow, purple and similar colors as a primary building color.

2. Site Development

2a. Off-Street Parking

A development plan indicating compliance with the off-street parking requirements of the Avondale Zoning Ordinance as amended will be submitted for approval prior to obtaining final building permits.

- The number of off-street parking spaces shall be based upon the proposed building use as determined at the time of site-plan review.

- All off-street parking and loading areas, access drives, internal circulation drives, and truck maneuvering areas shall conform to the requirements and regulations of the Avondale Fire Department, Zoning Ordinance, and Engineering Division.

Note: Additional landscape enhancements will be required along the Interstate 10 frontage, including shade trees incorporated into parking areas at the rate of one (1) tree per 6 parking stalls instead of the standard of one (1) per 8 stalls.

Covered Parking

- Covered parking shall be lighted. The source of illumination shall be screened, recessed or covered.
- Parking canopies shall include fascias that are consistent with the color and architectural themes of the principal building.

2b. Loading areas

All loading areas and loading docks shall be designed not to be visible from adjacent streets or detract from the architectural character of the project.

- All truck loadings or loading docks shall be located at the rear or side of the building. No loading dock shall face a front street or Interstate 10.
- All loading areas must be screened by a continuous wall with to match the architecture of the building at a minimum height of 8'
- Landscaping by additional street trees or on-site tree massing in combination with the screen wall may be used to visually screen loading docks.

2c. Screening

Screen walls shall maintain a consistent material, design and color theme to provide continuity throughout the Commerce Park.

- Screen walls shall be provided for all service areas, mechanical and electrical equipment yards, outdoor storage areas, loading docks, and refuse collection areas.
- All screen walls should be architecturally treated as an extension of the primary structure.
- When needed, parking screen walls shall be a minimum of 3-foot in height and constructed of block and may be finished with stucco or mortar wash.
- 3' high landscape berms may be used in conjunction with parking screen walls.
- Perimeter screen walls shall be a minimum of 6-foot in height constructed of the design and materials of the building.
- Screen walls along pedestrian routes or sidewalks shall be set back to allow for landscaping

2d. Site Lighting

The lighting should enhance the architectural and site design concepts of the overall PAD.

- Lighting shall be master planned for the development at the time of site plan review.

- Street lighting shall be provided along El Mirage Road per current City of Avondale standards.
- Site lighting shall be provided for security throughout all parking areas, service areas, and building entries/exits that provides a level of security.
- All site lighting shall be directed downward and use appropriate light source to minimize light pollution onto adjacent properties and to adhere to local dark sky ordinance.
- Lighting shall not exceed 1-foot candle at the property line
- Intensity shall not be greater than required for vehicular and pedestrian safety.
- The use of shields with cut-off fixtures is required for all pole and wall pack lighting
- Height of light poles shall be a maximum of 25' high.
- Low pedestrian-scaled fixtures may be allowed to help identify and light pedestrian routes within the commercial areas.

2e. Pedestrian Circulation

El Mirage Drive shall provide 8' wide sidewalks detached from the back of curb. Accessible walkways from the parking areas to the building entries shall also be provided.

a. Stamped, colored concrete or pavers shall be used to denote all pedestrian crossings.
b. Pedestrian pathways shall be shaded via landscaping or the introduction of hardscape elements such as canopies as determined at the time of site plan review.

2f. Grading and Drainage

The site will be required to retain storm water runoff and retain for the adjacent half streets. Retention basins shall be designed and contoured to assume a more natural appearance and to be an integral part of the landscape. The Property will be coordinated to combine open space areas with property to the west in order to provide greater sense of scale and to enhance the potential for more active and passive recreational uses. Retention basins shall be designed to meet the requirements of the Avondale Zoning Ordinance as amended.

2g. Signage

Signage for the PAD should be designed to enhance the identity of the overall development park and the individual businesses within. A master sign package shall be submitted for review and approved with the master site plan.

Freestanding Monument:

- Monument Signs shall be for center identification only, with the complex name and address.
- Monuments shall not exceed 6-foot in height and 10-foot in width.

- Sign materials and colors shall be consistent with the exterior architecture of the buildings. Lettering shall be halo backlit reverse pan channel letters.
- Maintenance of the signage will be at the responsibility of the developer.
- One (1) monument sign location has been proposed to be placed within the PAD. See potential locations on Exhibit "D"

Multi-tenant Monument

- One multi-tenant monument sign for tenant identification will be allowed along El Mirage Road. An additional multi-tenant monument sign may be located at a future secondary entrance point to be determined at the time of site plan review.
- Two multi-tenant signs may be necessary depending upon number of tenants.
- The design of the monument shall be consistent with the overall scale of the building. Design and placement of any signage shall not obstruct traffic safety site areas.
- Shall not exceed 8 feet in height.
- Maximum area of 100 square feet.
- Signs shall be a minimum of 300 feet apart
- Lettering shall be non reflective halo backlit reverse pan channel letters.

Building:

- Signage shall be systematically located and styled to support the architectural design
- Building wall signage
    - Maximum sign area – 1 sq ft for each linear ft of suites building façade. 150 sq ft maximum per sign.
    - Sign placement – below edge of roof.
    - Location requirements – Signs will be mounted above each respective suite, placed consistently along the building face, and located on the upper part of the exterior wall within a dedicated band
- Lettering -
    - Commerce Park - wall mounted tenant signage shall be reverse pan channel letters with solid color that compliments the building color.
    - Illuminated signage may be placed on buildings fronting I-10
    - Halo backlighting will be used for all wall signage requiring illumination.
- Tenants may have one window decal sign. Window signage shall count towards allowable building signage aggregates and shall require a permit from the City of Avondale.

3. Streetscape and On-site Landscape

Landscaping is an important component of commerce center design which softens the park appearance by breaking up the continuous expanse of pavement and buildings. In order to create a uniform appearance throughout the development, the PAD will be established.

The PAD requires complete streetscape concepts and strategies that help contribute to the identity and comfort of the development.

- A typical streetscape concept and theme shall be developed and repeated. Includes tree selection, lighting, signage, decorative walls, and other design elements.
- Streetscape should reinforce design concepts for the commerce, center. This includes defining focal points, framing views and edges, and highlighting architectural design features.
- When necessary, streetscaping should screen views of parking lots and loading areas. Berms or shrubs may be used to help screen parking lots.
- Landscaping shall comply with the City of Avondale landscaping requirements.
- All plant materials shall conform to the Arizona Department of Water Resources (ADWR) plant material list.

On-site landscaping shall reinforce overall site and architectural concepts while increasing pedestrian comfort.

- Planting in front and side yards should reinforce the PAD streetscape concept.
- Foundation planting should enhance architectural and massing concepts for buildings.
- Accent planting and color should reinforce architectural and site design entry expression.
- Screen planting should be used around parking lots and to block undesirable views. Parking lot screen planting should be at least 30" tall.

- Grading and retention basins should be done to fulfill functional requirements and architectural and site design concepts.
- Landscaping must comply with the City of Avondale landscaping requirements.
- All plant materials shall conform to the ADWR plant material list

The City of Avondale has established the landscape theme for the Interstate 10 frontage, which includes the predominant use of Southern Live Oaks (Quercus virginiana 'Heritage Oak'). Along the interstate frontage, 50% of the required trees shall be Southern Live Oak, all which shall be a minimum of 24" Box. All of the interior street intersections shall include at least one Southern Live Oak which shall be a minimum of 36" Box in size and clustered with other Southern Live Oak of varying size to reinforce the street tree theme. The size and quantities of plant material for the balance of the streetscape shall conform to the landscape standards of the Avondale Zoning Ordinance as amended.

Note: Landscaping plans will receive a master site plan/design review in order to maintain a unified project.

G. Infrastructure / Utilities

1. Access / Circulation

The primary access to and from the property is along Van Buren Street, a designated major arterial quarter mile south of the property.

El Mirage Drive is a collector street that aligns with the quarter mile point east of 127th Avenue and is centered on the west property line, where it will terminate at the northeast corner of the property in a cul-de-sac.

Development of the **East** portion of the site may not proceed until a secondary access point agreement is reached along the south or east property lines. The location of the secondary access point must be approved by the City Engineer or his "designee."

]

2. **Street Improvements**
Half street improvements will be constructed per City of Avondale standards and in conformance with the proposed development. Improvements that will comply to City of Avondale standards include but are not limited to, curb, gutter, and 8' wide sidewalks connecting to possible improvements leading to Friendship Park. Street dedications as follows:

Street	Ex. ROW	Prop. ROW
El Mirage: east half ROW	33'	60'

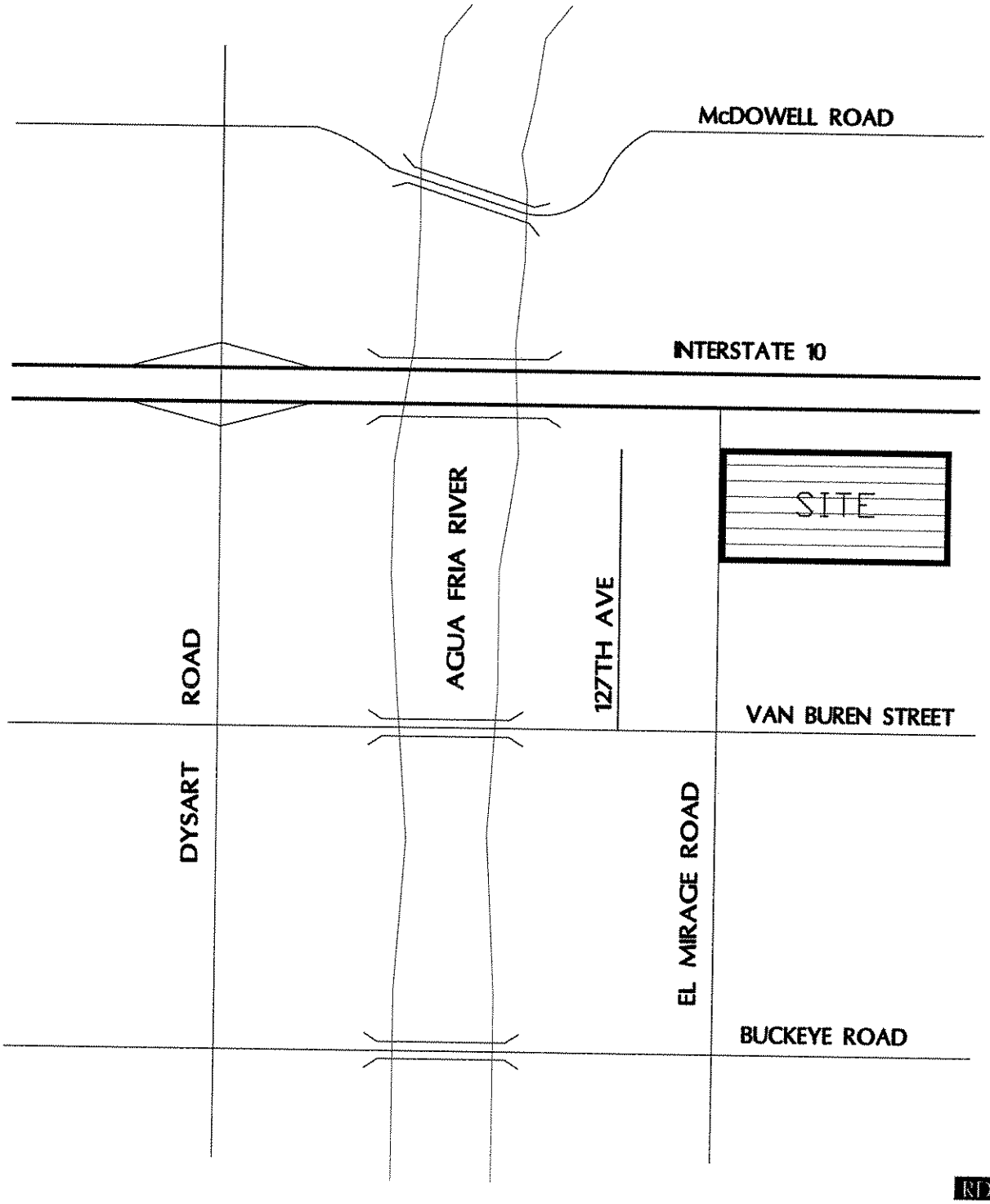
3. **Water Service**
This project will connect into the water main within El Mirage Drive where it connects into the existing water main in Van Buren.

4. **Sanitary Sewer Service**
Proposed is a gravity sewer system. All sewer mains internal to the site will drain to the west and connect into the sewer main in El Mirage Road.

5. **Electrical Service**
This subject property is within the service area of the Salt River Project.

6. **Natural Gas Service**
This project is within the service area of the Southwest Gas Corporation.

7. **Telephone Service**
This Subject property is within the service of Qwest Telephone.



RDB Management & Construction

PAPAGO.COMMERCE.CENTER

AVONDALE, AZ

NORTH

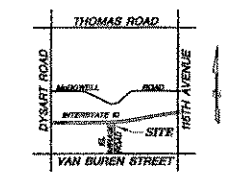
VICINITY MAP
EXHIBIT A

167 W. Willetta Dr, Phoenix, AZ 85037
T: 623.780.0929 F: 623.296.2050

A.L.T.A. / A.C.S.M. LAND TITLE SURVEY

OF

A PORTION OF THE WEST HALF OF SECTION 1
TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND
SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY,
ARIZONA.



VICINITY MAP

NOT TO SCALE

SCALE IN FEET

SCALE : 1" = 50'

DESCRIPTION

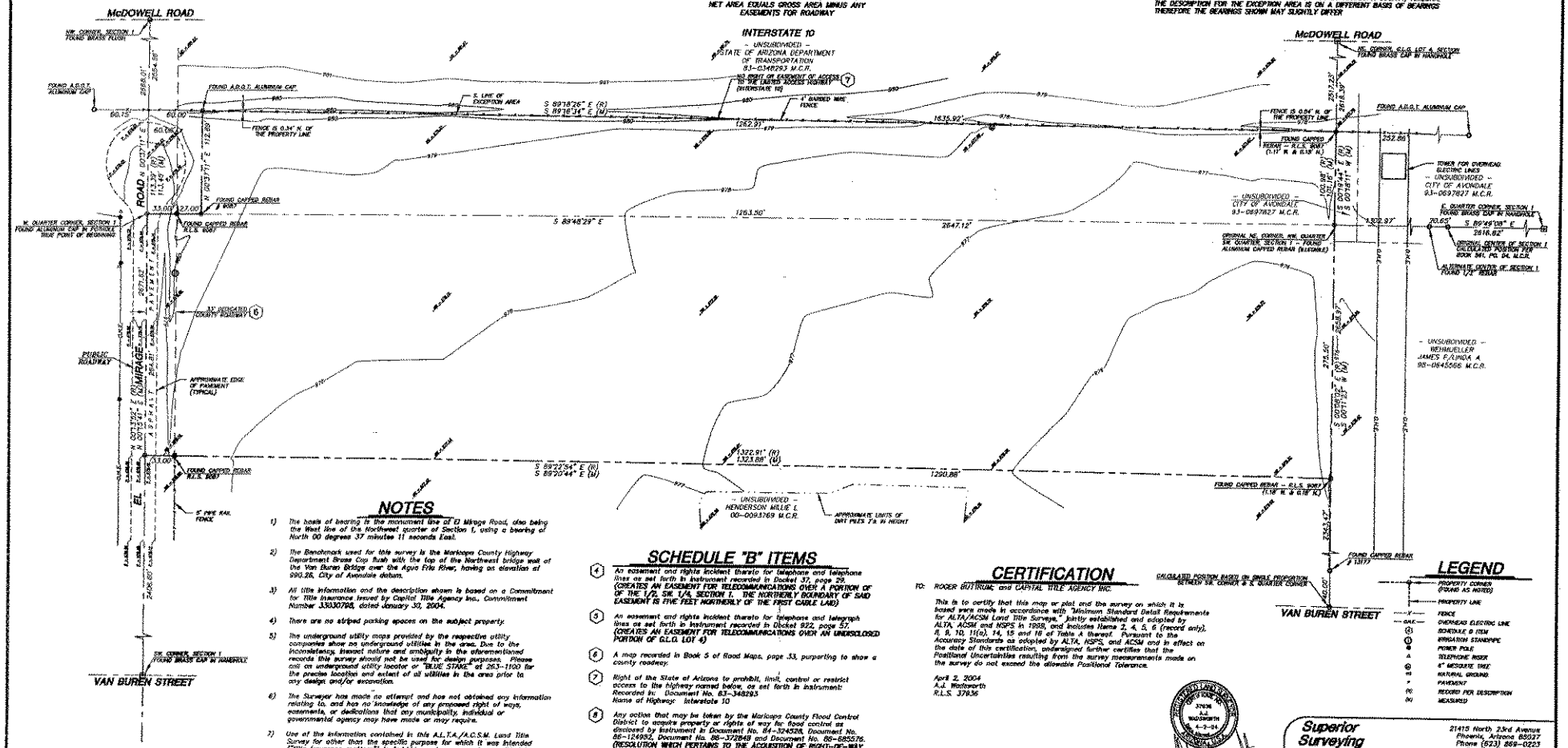
A PARCEL OF LAND BEING A PART OF THE WEST HALF OF THE WEST HALF OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 1, AND THE TRUE POINT OF BEGINNING;
THENCE NORTH 0 DEGREES 37 MINUTES 11 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 1, A DISTANCE OF 113.39 FEET TO THE NORTHWEST CORNER OF THIS SAID PARCEL;
THENCE SOUTH 89 DEGREES 18 MINUTES 28 SECONDS EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE I-10 FREEWAY A DISTANCE OF 1321.86 FEET;
THENCE SOUTH 0 DEGREES 19 MINUTES 44 SECONDS EAST A DISTANCE OF 100.98 FEET TO THE INTERSECTION WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 1;
THENCE SOUTH 0 DEGREES 08 MINUTES 02 EAST A DISTANCE OF 275.06 FEET;
THENCE NORTH 89 DEGREES 22 MINUTES 54 SECONDS WEST A DISTANCE OF 1322.91 FEET;
THENCE NORTH 0 DEGREES 13 MINUTES 53 SECONDS EAST A DISTANCE OF 264.81 FEET BACK TO THE TRUE POINT OF BEGINNING;

EXCEPT THAT PORTION WHICH LIES NORTHERLY OF THE FOLLOWING DESCRIBED LINE:
BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 1;
THENCE NORTH 89 DEGREES 57 MINUTES 41 SECONDS EAST, 63.00 FEET;
THENCE NORTH 0 DEGREES 17 MINUTES 59 SECONDS EAST 113.90 FEET;
THENCE SOUTH 89 DEGREES 34 MINUTES 21 SECONDS EAST 1516.06 FEET TO THE POINT OF ENDING, AS CONDEMNED FOR STATE HIGHWAY PURPOSES BY INSTRUMENT RECORDED IN DOCUMENT NO. 83-348293, RECORDS OF MARICOPA COUNTY, ARIZONA.
THE DESCRIPTION FOR THE EXCEPTION AREA IS ON A DIFFERENT BASIS OF BEARINGS THEREFORE THE BEARINGS SHOWN MAY SLIGHTLY DIFFER

AREA

GROSS AREA = 113129 ACRES / 492,791 SQUARE FEET
NET AREA = 111122 ACRES / 484,048 SQUARE FEET
NET AREA EQUALS GROSS AREA MINUS ANY EASEMENTS FOR ROADWAY



NOTES

1) The basis of bearing is the monument line of El Mirage Road, also being the West line of the Northwest quarter of Section 1, using a bearing of North 00 degrees 37 minutes 11 seconds East.

2) The Benchmark used for this survey is the Maricopa County Highway Department Brass Cap flush with the top of the Northwest bridge wall of the Van Buren Bridge over the Agua Fria River, having an elevation of 990.26, City of Avondale datum.

3) All title information and the description shown is based on a Commitment for Title Insurance issued by Capital Title Agency Inc., Commitment Number 33330798, dated January 30, 2004.

4) There are no striped parking spaces on the subject property.

5) The underground utility maps provided by the respective utility companies show no underground utilities in the area. Due to the inconsistency, inexact nature and ambiguity in the aforementioned records this survey should not be used for design purposes. Please call an underground utility locator or "BLUE STAKE" at 263-1100 for the precise location and extent of all utilities in the area prior to any design and/or excavation.

6) The Surveyor has made no attempt and has not obtained any information relating to, and has no knowledge of any proposed right of ways, easements, or dedications that any municipality, individual or governmental agency may have made or may require.

7) Use of the information contained in this A.L.T.A./A.C.S.M. Land Title Survey for other than the specific purpose for which it was intended ("title insurance matters") is forbidden unless expressly permitted in writing in advance by Superior Surveying Services, Inc. Superior Surveying Services, Inc. shall have no liability for any such unauthorized use of this information without their written consent.

SCHEDULE "B" ITEMS

4) An easement and rights incident thereto for telephone and telephone lines as set forth in instrument recorded in Docket 37, page 29. (CREATES AN EASEMENT FOR TELECOMMUNICATIONS OVER A PORTION OF OF THE E/2, SW. 1/4, SECTION 1. THE NORTHERLY BOUNDARY OF SAID EASEMENT IS FIVE FEET NORTHERLY OF THE FIRST CABLE LAID)

9) An easement and rights incident thereto for telephone and telegraph lines as set forth in instrument recorded in Docket 922, page 57. (CREATES AN EASEMENT FOR TELECOMMUNICATIONS OVER AN UNDISCLOSED PORTION OF G.L.O. LOT 4)

6) A map recorded in Book 5 of Road Maps, page 33, purporting to show a county roadway.

7) Right of the State of Arizona to prohibit, limit, control or restrict access to the highway named below, as set forth in instrument:
Recorded in: Document No. 83-348293
Name of Highway: Interstate 10

8) Any action that may be taken by the Maricopa County Flood Control District to acquire property or rights of way for flood control as disclosed by instrument in Document No. 84-324528, Document No. 86-124952, Document No. 86-372849 and Document No. 86-685575. (RESOLUTION WHICH PERTAINS TO THE ACQUISITION OF RIGHT-OF-WAY FOR THE AGUA FRIA RIVER CHANNELIZATION PROJECT OVER AN UNDEFINED PORTION OF SECTION 1)

CERTIFICATION

TO: ROGER BUTTRUM, and CAPITAL TITLE AGENCY INC.

This is to certify that this map or plat and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA, ACSM and NSPS in 1999, and includes Items 2, 4, 5, 6 (record only), 8, 9, 10, 11(a), 14, 15 and 16 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA, NSPS, and ACSM and in effect on the date of this certification, undersigned further certifies that the Positional Uncertainties resulting from the survey measurements made on the survey do not exceed the allowable Positional Tolerance.

April 2, 2004
A.J. Wadsworth
R.L.S. 37936

LEGEND

- PROPERTY CORNER (FOUND AS NOTED)
- PROPERTY LINE
- FENCE
- OVERHEAD ELECTRIC LINE
- (3) SCHEDULE B ITEM
- IRRIGATION STANDPIPE
- POWER POLE
- TELEPHONE RISER
- 6" MESQUITE TREE
- NATURAL GROUND
- PAVEMENT
- (R) RECORD PER DESCRIPTION
- (M) MEASURED

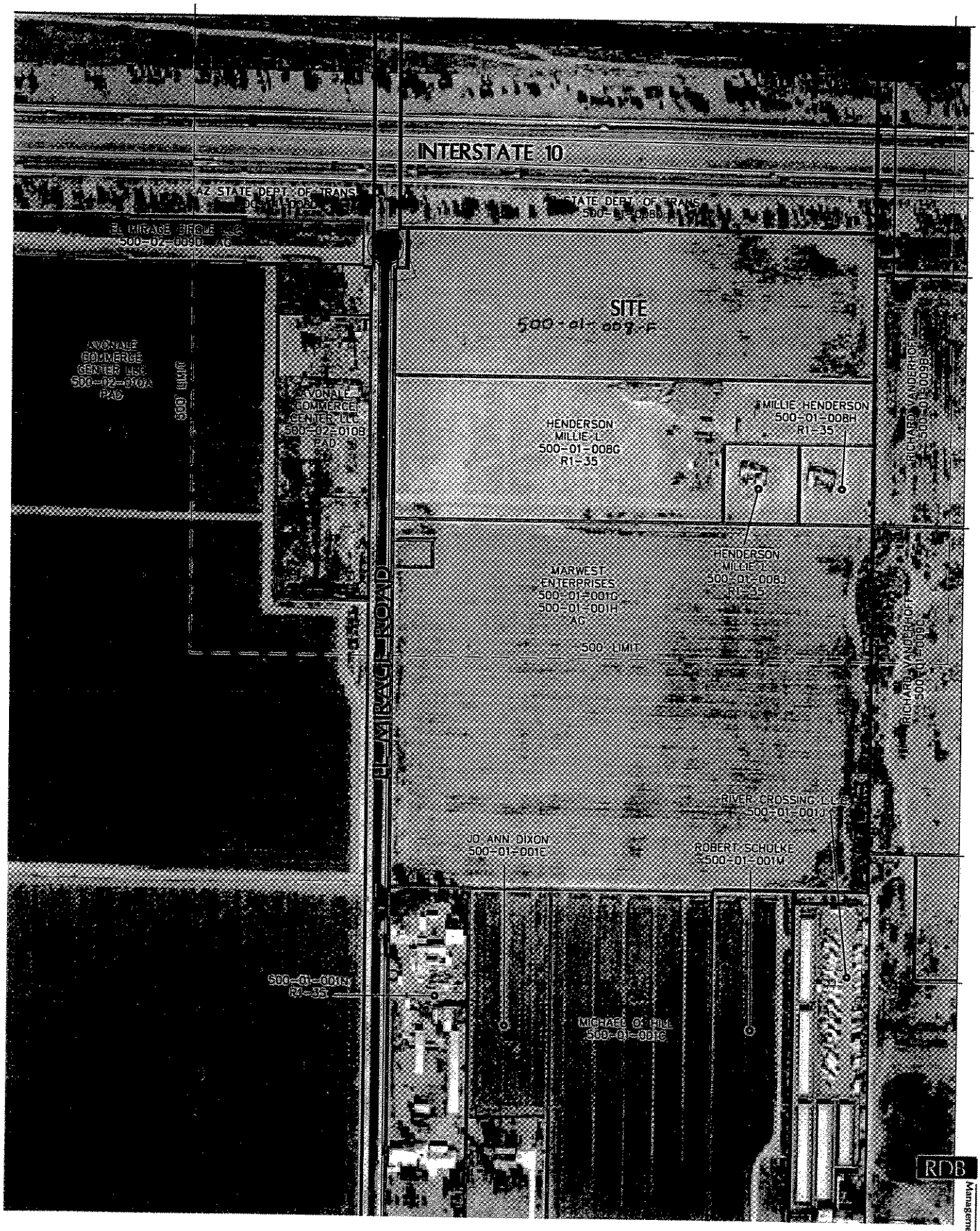
Superior Surveying Services, Inc.
21415 North 23rd Avenue
Phoenix, Arizona 85027
Phone (623) 869-0223
Fax (623) 869-0728
info@superiorsurveying.com
PROFESSIONAL LAND SURVEYING - ARIZONA, CALIFORNIA, NEVADA
ARIZONA NO. 18214 - CALIFORNIA NO. LS8082 - NEVADA NO. 7880

EL MIRAGE & INTERSTATE 10; AVONDALE, ARIZONA

DATE: 4-2-04 REVISED: JOB NO.: 240328

Z:\DWG\240328.DWG

Exhibit B



PAPAGO.COMMERCE.CENTER

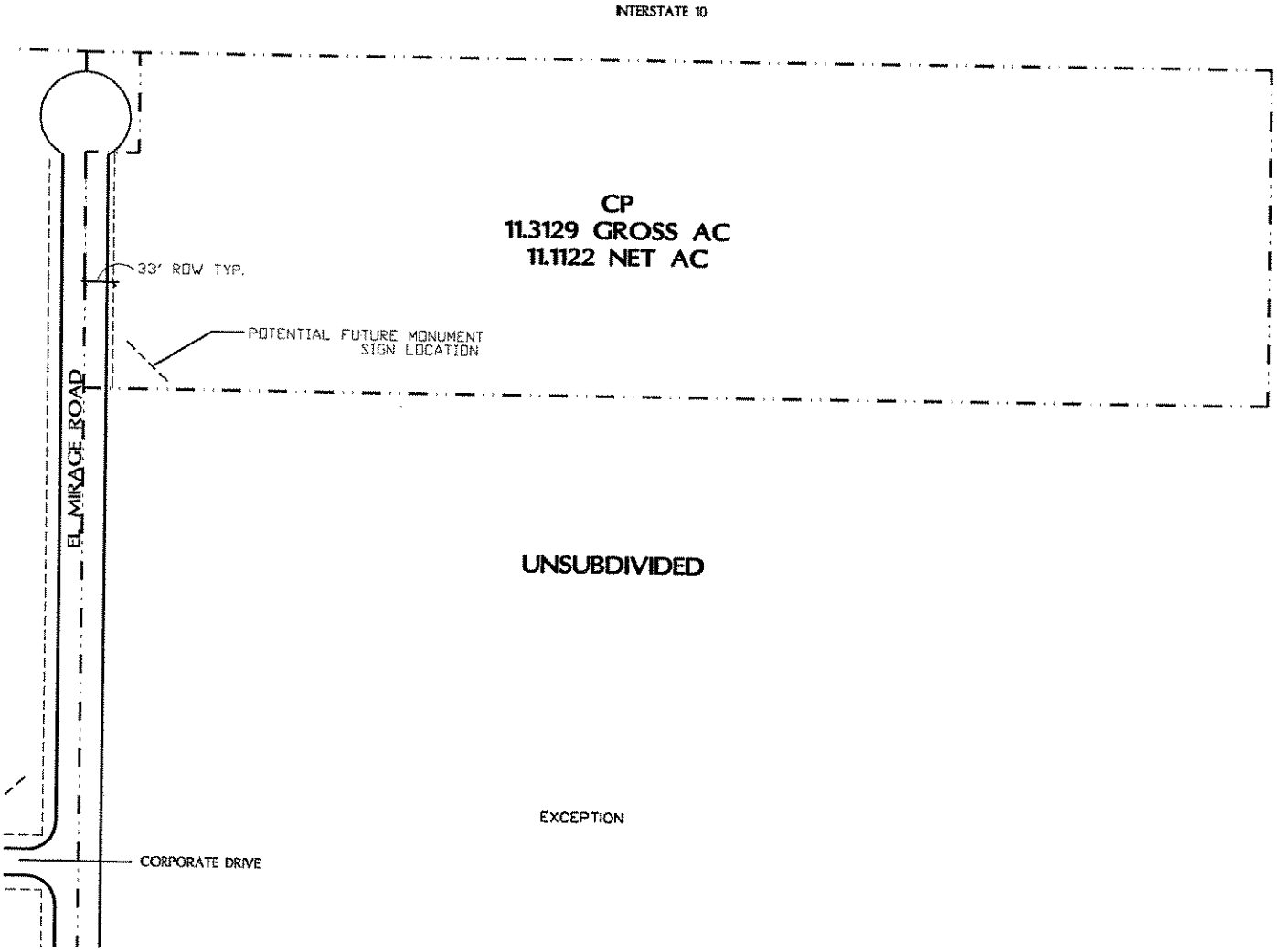
AVONDALE, AZ

NORTH

CONTEXT PLAN
EXHIBIT C

RDB Management & Construction

1617 W. Williams Dr, Phoenix, AZ 85027
T: 623.780.2929 F: 623.298.2050



SITE DATA SUMMARY

GROSS SITE AREA	11.31 AC
(PERIMETER R.O.W.)	0.2 AC
NET SITE AREA	11.11 AC

NOTES:
GROSS ACERAGES IS CALCULATED TO THE ADJACENT PERIMETER STREET CENTER LINE.

ALL ACERAGES SHOWN ARE BASED ON APPROXIMATE NET VALUE

NORTH

GENERAL DEVELOPMENT PLAN
EXHIBIT D

RDB Management & Construction

PAPAGO.COMMERCE.CENTER

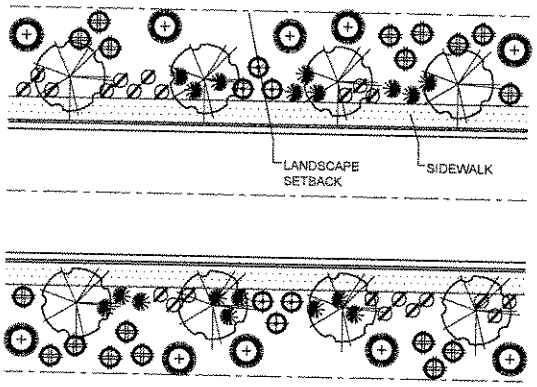
1617 W. Williams Dr. Phoenix, AZ 85027
T: 623.780.2929 F: 623.298.2050

PLANT SCHEDULE

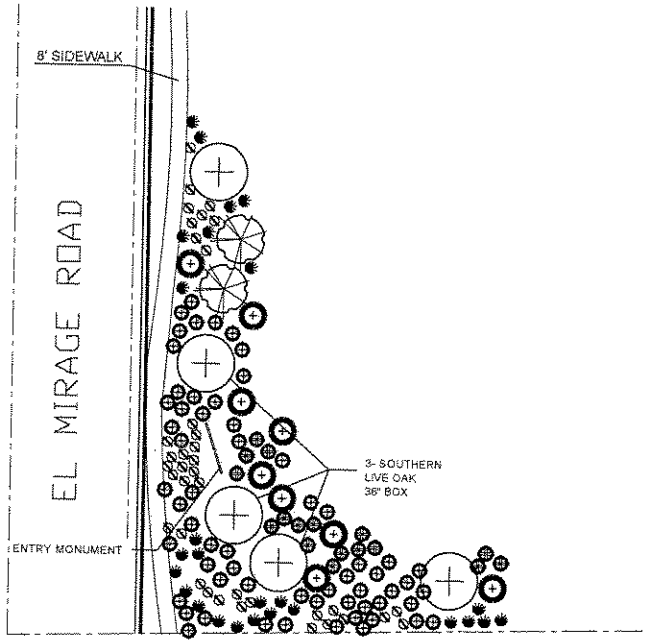
SYMBOL	BOTANICAL/COMMON NAME	W x H
	TREES SUCH AS + (25% = 24" BOX / 74% = 15 GAL.)	
	ACACIA SPP. ACACIA	20 x 20
	CERCIDIUM SPP. PALO VERDE	30 x 30
	CHILOPSIS LINEARIS DESERT WILLOW	20 x 20
	PITHECELLOBIUM FLEXICAULE TEXAS EBONY	20 x 20
	PROSOPIS SPP. MESQUITE	30 x 30
	QUERCUS VIRGINIANA SOUTHERN LIVE OAK	30 x 30
	SHRUBS SUCH AS + (REQ'D. 5 GAL. SHRUBS)	
	CALSALPINA SPP BIRD OF PARADISE	5 x 6
	CASSIA SPP. CASSIA	6 x 6
	CALLIANDRA SPP. FAIRY DUSTER	4 x 4
	DALEA PULCHRIA INDIGO BUSH	5 x 6
	DODONAEA SPP. HOPSEED BUSH	10 x 12
	EREMOPHILA SPP EMU BUSH	4 x 4
	LEUCOPHYLLUM SPP. TEXAS RANGER	3 x 3
	RUELLIA SPP. RUELLIA	4 x 4
	TECOMA SPP. ORANGE JUBILEE	8 x 10
	ACCENTS SUCH AS + (5 GAL.)	
	AGAVE SPP. AGAVE	6 x 6
	DASYLIRION SPP. DESERT SPOON	6 x 4
	HESPERALOE SPP RED YUCCA	3 x 3
	MUHLENBERGIA SPP DEER GRASS	3 x 3
	GROUNDCOVER SUCH AS + (1 GAL.)	
	ACACIA SPP. ACAIA	8 x 2
	BAILEYA MULTIRADIATA DESERT MARIGOLD	2 x 1
	BACCHARIS SPP. DESERT BROOM HYBRID	6 x 3
	DALEA SPP. TRAILING INDIGO BUSH	6 x 1
	LANTANA SPP. LANTANA	5 x 1
	VERBENA SPP. VERBENA	5 x 1
	MATERIAL	
	DECOMPOSED GRANITE "JESSE RED"	3/4" MINUS
	WEATHERED GRANITE BOULDERS SURFACE SELECT	1/2 - 2 TONS 1 TON AVG

NOTE: TREE HEIGHTS AND CALIPERS WILL COMPLY WITH "ARIZONA NURSERY ASSOCIATION SPECIFICATIONS" FOR THAT SIZE OF TREE.

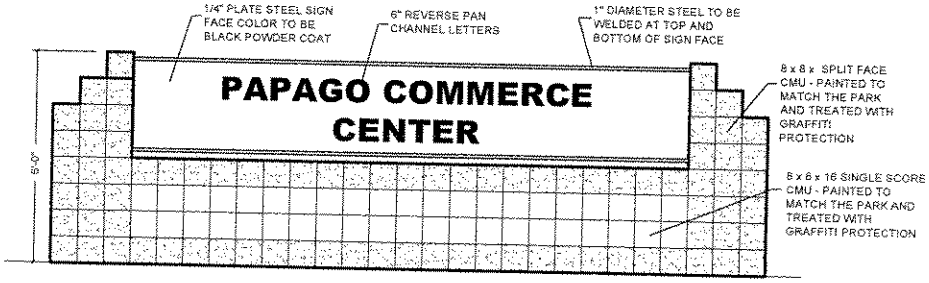
NOTE: LANDSCAPE TO BE WATERED BY AN UNDERGROUND AUTOMATIC IRRIGATION SYSTEM



INTERNAL STREETSCAPE CONCEPT



TYPICAL ENTRY MONUMENT – STREETSCAPE CONCEPT



ENTRY MONUMENT

RDB Management & Construction

PAPAGO.COMMERCE.CENTER

NORTH

CONCEPTUAL MONUMENT & STREETSCAPE EXHIBIT G

1617 W. Williams Dr, Phoenix, AZ 85027
T: 623.780.2929 F: 623.298.2090

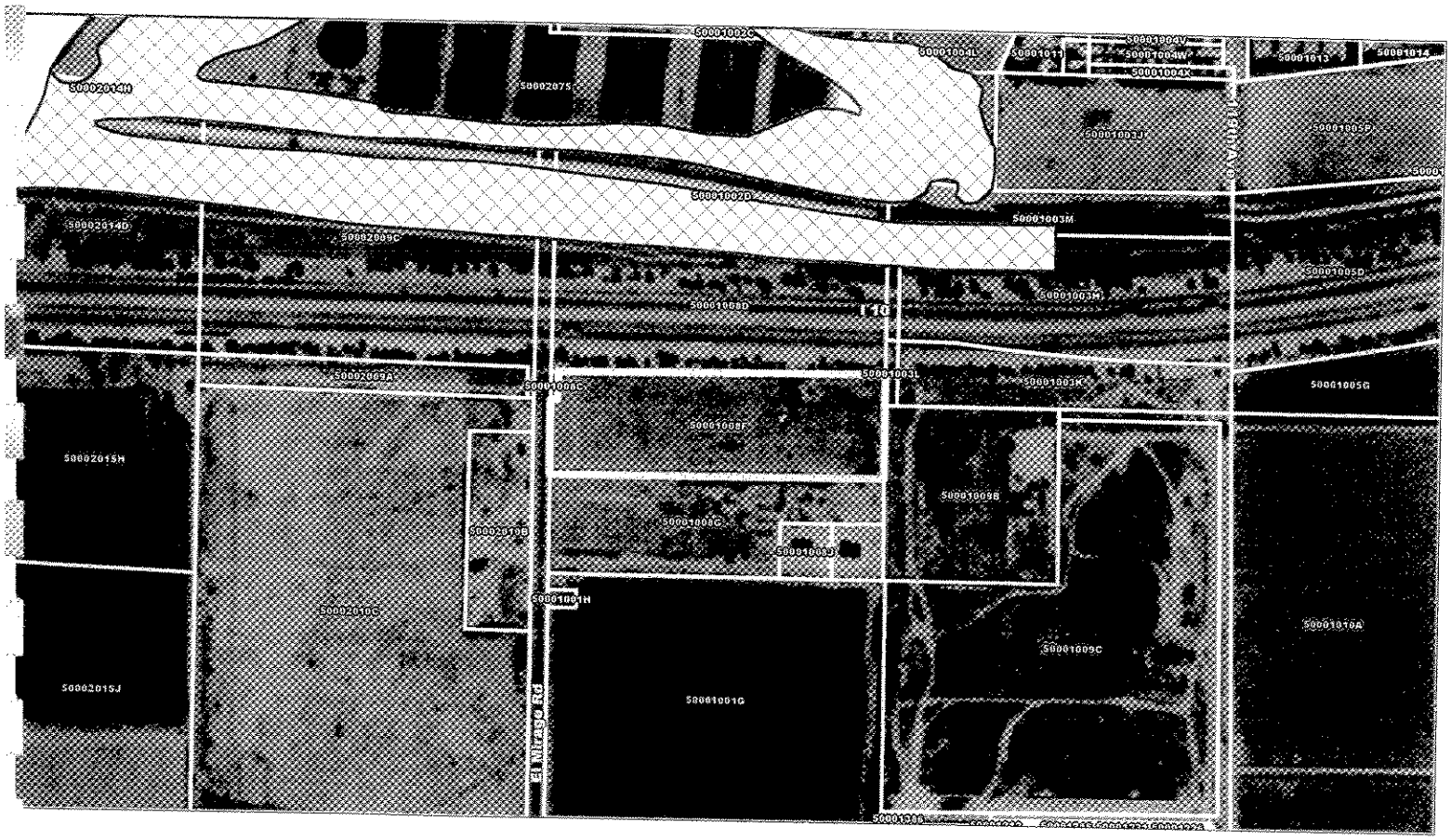
Proposed Papago Commerce Center – Parcel No. 500-01-008F

(Proposed Project)
Papago Commerce Center
El Mirage & I-10
Avondale, AZ

(Owner-Builder)
RDB Development & Construction
1617 West Williams Drive
Phoenix, AZ 85027

FLOOD ZONE DETERMINATION:

Flood zone "X" defined as an area of 500-year flood; areas of 100 year flood with average depths of less than one (1) foot or with drainage areas less than one (1) square mile; and areas protected by levees from 100 year flood.



SCALE 1 : 8,088

500 0 500 1,000 1,500
FEET

N

PAPAGO COMMERCE CENTER

K:\Projects\Papago\City Comments & Letters\ReZoning Floodzone 5-18-04.doc

Exhibit E

ORDINANCE NO. 1272-1007

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 11.1 ACRES LOCATED AT THE SOUTHEAST CORNER OF INTERSTATE 10 AND EL MIRAGE ROAD AS SHOWN IN FILENAME Z-07-5, REZONING SUCH PROPERTY FROM AGRICULTURAL (AG) TO PLANNED AREA DEVELOPMENT (PAD) AND IMPOSING CONDITIONS UPON SUCH CHANGE.

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

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

WHEREAS, the Commission held a public hearing on Thursday, September 20, 2007, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission recommended approval; and

WHEREAS, the City Council held a public hearing regarding the amendment to the Zoning Atlas on October 15, 2007.

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

SECTION 1. That ± 11.1 acres of real property, generally located at the southeast corner of Interstate 10 and El Mirage Road as shown in filename Z-07-5 (the "Property"), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned from Agricultural (AG) to Planned Area Development (PAD), subject to the following conditions:

1. Development shall conform to the Papago Commerce Center General Development Plan date stamped August 9, 2007, except as modified by these stipulations.

2. Retail commercial operations directly related to the primary industrial use shall not exceed ten (10) percent of the gross floor area of any single tenant except with a Conditional Use Permit, where up to 30 percent may be allowed.

3. Freestanding freeway identification signage shall not be allowed.

4. A master site plan shall be approved by the City Council prior to development. Subsequently, plans and permits may be administratively approved by staff for this development in accordance with the Council approved master site plan and comprehensive sign program.

5. Right-of-way dedication and street improvements shall be required as follows:

Street	**Right-of-way Required**	**Street Improvements**
El Mirage Road	60' half street adjacent to property. (Major Collector)	2 travel lanes, bike lane, curb and gutter, sidewalks, street lights and landscaping

6. Additional right-of-way may be required at site plan approval for improvements based upon the results of the revised traffic study and the site plan application, as determined by the City Engineer.

7. A full traffic impact analysis shall be required at the time of master site plan approval.

8. All water rights on the property shall be conveyed to the City of Avondale prior to issuance if a building permit or approval of a final plat, which ever is first.

9. Development of the eastern half of the Papago Commerce Center property may not commence until a secondary access point can be built.

10. The master site plan shall be approved by ADOT prior to site plan approval by the City of Avondale.

SECTION 2. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, October 15, 2007.

Marie Rogers Lopez, Mayor

ATTEST:

Linda M. Farris, City Clerk

APPROVED:

Andrew J. McGuire, City Attorney

772850.1

EXHIBIT A
TO
ORDINANCE NO. 1272-1007

[Map and Legal Description]

See following pages.

SOUTHEAST CORNER OF INTERSTATE 10 AND EL MIRAGE ROAD

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PART OF THE WEST HALF OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 1, AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 0 DEGREES 37 MINUTES 11 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 1, A DISTANCE OF 113.39 FEET TO THE NORTHWEST CORNER OF THIS SAID PARCEL;

THENCE SOUTH 89 DEGREES 18 MINUTES 26 SECONDS EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE I-10 FREEWAY A DISTANCE OF 1321.86 FEET;

THENCE SOUTH 0 DEGREES 19 MINUTES 44 SECONDS EAST A DISTANCE OF 100.98 FEET TO THE INTERSECTION WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 1;

THENCE SOUTH 0 DEGREES 08 MINUTES 02 SECONDS EAST A DISTANCE OF 275.50 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 54 SECONDS WEST A DISTANCE OF 1322.91 FEET;

THENCE NORTH 0 DEGREES 13 MINUTES 52 SECONDS EAST A DISTANCE OF 264.81 FEET BACK TO THE TRUE POINT OF BEGINNING;

EXCEPT THAT PORTION WHICH LIES NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

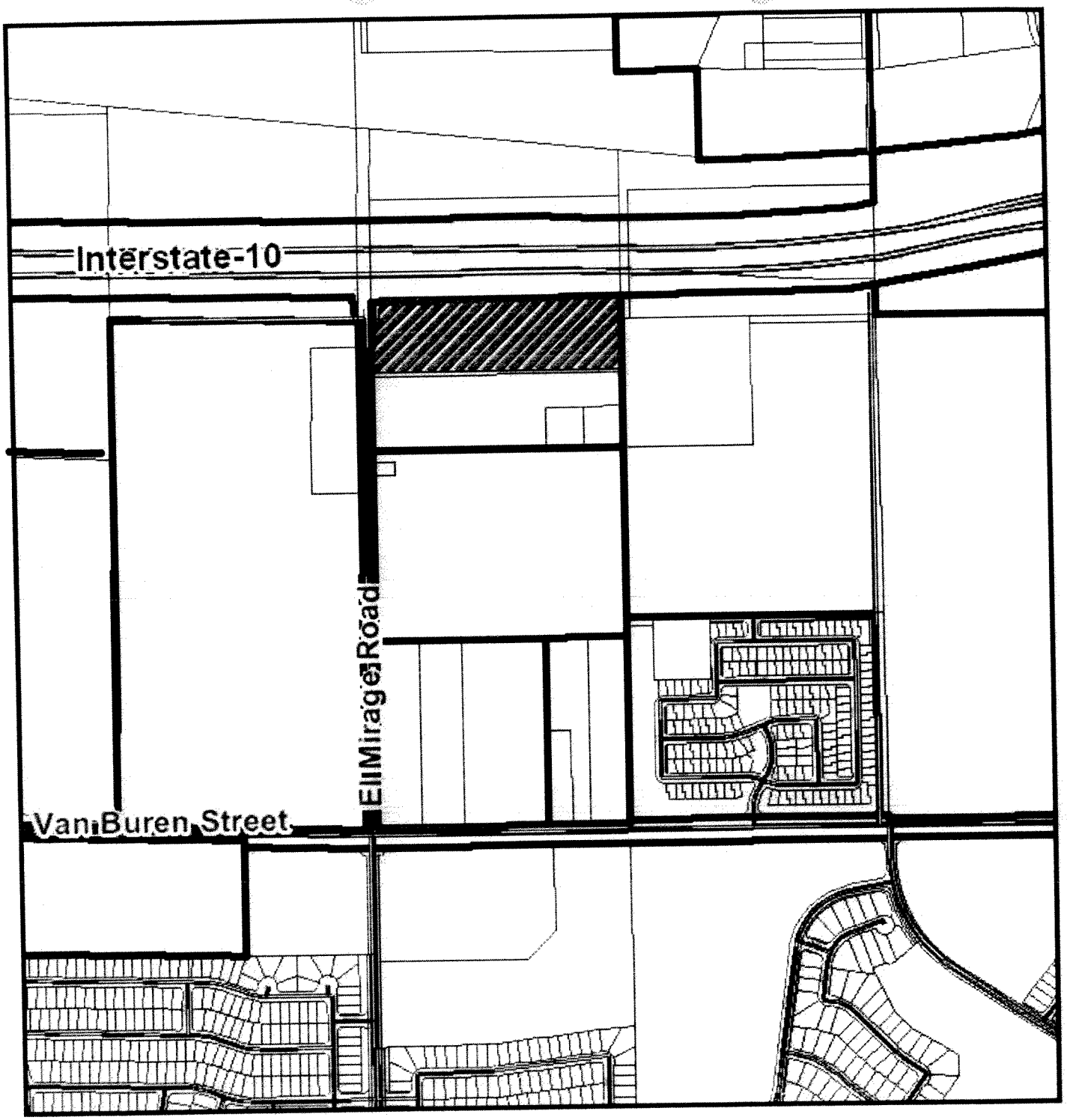
BEGINNING AT THE WEST CORNER OF SAID SECTION 1:

THENCE NORTH 89 DEGREES 52 MINUTES 41 SECONDS EAST, 60.00 FEET;

THENCE NORTH 0 DEGREES 17 MINUTES 59 SECONDS EAST, 112.90 FEET;

THENCE SOUTH 89 DEGREES 34 MINUTES 21 SECONDS EAST, 1516,06 FEET TO THE POINT OF ENDING, AS CONDEMNED FOR STATE HIGHWAY PURPOSES BY INSTRUMENT RECORDED IN DOCUMENT NO. 83-348293, RECORDS OF MARICOPA COUNTY, ARIZONA. THE DESCRIPTION FOR THE EXCEPTION AREA IS ON A

DIFFERENT BASIS OF BEARINGS THEREFORE THE BEARINGS MAY SLIGHTLY DIFFER.



Application Z-07-5

Avondale

Subject Property

Exhibit F

City Council Regular Meeting – Excerpt of Meeting Minutes
October 15, 2007

PUBLIC HEARING AND ORDINANCE 1272-1007 – PAPAGO COMMERCE CENTER REZONING (Z-07-5)

Ken Galica, Planner II, Development Services Department, explained this item was a rezoning application for Papago Commerce Center, approximately 11 acres located at the southeast corner of I-10 and El Mirage Road, currently zoned AG. Mr. Galica showed the Council an aerial photo of the subject property, pointing out vehicular access. He stated the subject property is designated as Employment by the General Plan and it falls within the Freeway Corridor Specific Plan, and the Employment land use encourages office and enclosed industrial uses, as well as modest amounts of retail which support the office and industrial uses. Mr. Galica informed the Council that the proposed office, distribution, and light manufacturing uses are consistent with the Commerce Park zoning district and the Employment land use designation, and the proposed Conditional Uses are consistent with the PADs approved in the vicinity. He reported the PAD development plan contains standards designed to encourage outstanding architecture through the inclusion of landscaping, signage and building design standards which will ensure a quality development of the subject property, and all development standards proposed for the property are identical to those in the Commerce Park district with the exception of an increase in building height from 35 to 45 feet. Mr. Galica explained that Staff feels this building height increase is appropriate considering the parcel location is adjacent to the freeway. He stated a Master Site Plan for the site, which will include reviews of materials, colors, landscaping, etc., will come before the City Council at a later date.

Mr. Galica reported this request for rezoning meets the requirements of the Zoning Ordinance, will result in compatible land use relationships, and will produce the quality of development which is consistent with the desired character for the area. He stated that with the recommended stipulations, the Papago Commerce Center PAD is consistent with the objectives of the General Plan and the Freeway Corridor Specific Plan. He reported that on September 20, 2007, the Planning Commission recommended approval of the application subject to 10 stipulations.

Mayor Lopez Rogers opened the item for public hearing. There were no requests to speak.

Council Member Buster stated he received a call regarding a lack of the ability for churches to buy property and to expand which had occurred since the housing boom and the gobbling up of real estate by large developers. While he is not sure the call was in reference to this item or the last item, he pointed out a church had looked at a parcel in terms of leasing space. Mr. Galica responded this issue regarded the phase that is currently under construction just to the west of El

Exhibit F

Mirage Road where a church had looked at moving in, and the zoning does not allow for churches. He explained that churches were not considered compatible with employment types of uses because of the differences in parking requirements, pointing out that employment type uses require 1 space for every 500 square feet, and even less for areas that are strictly for warehousing and inventory storage; whereas, churches require much more parking. He added that churches were allowed in all commercial zoning districts, in some residential districts, and in some PAD districts, some subject to a Conditional Use Permit.

Council Member Buster stated this was an ongoing problem and perhaps he needs to talk with Staff about it because it was becoming all too common.

Charlie McClendon, City Manager, suggested that Council Member Buster refer the caller to the Economic Development staff or the Planning staff who are very familiar with inventory of property that might be available in the community that would be suitable for a church and they would be happy to work with the caller.

Mayor Lopez Rogers closed the public hearing.

Andrew McGuire, City Attorney, read Ordinance 1272-1007 – Papago Commerce Center Rezoning (Z-07-5), by title only.

Vice Mayor Wolf moved to approve the Ordinance subject to the 10 stipulations recommended by Staff.

1) Development shall conform to the Papago Commerce Center General Development Plan date stamped August 9, 2007, except as modified by these stipulations. 2) Retail commercial operations directly related to the primary industrial use shall not exceed ten (10) percent of the gross floor area of any single tenant except with a Conditional Use Permit, where up to thirty (30) percent may be allowed. 3) Freestanding freeway identification signage shall not be allowed. 4) A Master Site Plan shall be approved by the City Council prior to development. Subsequently, plans and permits may be administratively approved by staff or this development in accordance with the Council-approved Master Site Plan and Comprehensive Sign Program. 5) Right-of-way dedication and street improvements shall be required as follows: Street right-of-way required street improvements - El Mirage Road 60' half street adjacent to property. (Major Collector) 2 travel lanes, bike lane, curb and gutter, sidewalks, street lights and landscaping. 6) Additional right-of-way may be required at Site Plan approval for improvements based upon the results of the revised Traffic Study and the Site Plan application, as determined by the City Engineer. 7) A full Traffic Impact Analysis shall be required at the time of Master Site Plan approval. 8) All water rights on the property shall be conveyed to the City of Avondale prior to issuance of a building permit or approval of a final plat, whichever is first. 9) Development of the eastern half of the Papago Commerce Center property may not

Exhibit F

commence until a secondary access point can be built. 10) The Master Site Plan shall be approved by ADOT prior to Site Plan approval by the City of Avondale.

Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Council Member Earp	Excused
Council Member Scott	Excused
Council Member Buster	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor Wolf	Aye
Council Member Lynch	Aye
Council Member Weise	Aye

Motion carried unanimously.

City Council Regular Meeting – Excerpt of Meeting Minutes
December 6, 2010

7) PUBLIC HEARING – TIME EXTENSION FOR PAPAGO COMMERCE CENTER PAD ZONING

City Council holds a public hearing and considers a request by Mr. Erich Stiger, iStar Financial, Inc., to extend the validity of the Papago Commerce Center Planned Area Development (PAD) for one year, until October 15, 2011.

Mr. Galica advised that application PL-10-0100 is for property located at the southeast corner of the I-10 freeway and El Mirage. It was zoned PAD in 2007. Bordering properties are zoned R1-35, the Spectrum PAD, and the Avondale Commerce Center PAD. The Papago Commerce Center was processed by the same original applicant as the Avondale Commerce Center and the same owner owns both properties. The request is to extend the application for one year from the date of expiration. This would be the first of four one-year zoning extensions allowed. The site plan is consistent with the employment designation in the General Plan. The majority of development standards in this PAD remain current. The City is stipulating that the design language in the PAD be overridden by the design manuals, that it adhere to the Municipal Art Ordinance, and that it comply with the outdoor lighting standards. The justification for the request is that they have shown a commitment to the City and are still trying to fill empty tenant spaces in Avondale Commerce Project. It would be detrimental to the City and the developer to start a rezoning process from scratch. Staff recommends approval of the application.

Vice Mayor McDonald inquired about their actions to substantially move forward with the project. Mr. Galica explained that they have not submitted a site plan application, which would be the next step. There have been no discussions about development to this point. In response to his further inquiry, Mr. Galica said the adjacent Avondale Commerce Project PAD has three suites occupied out of several dozen. Vice Mayor McDonald doubted that they would break ground on the new development while there were so many empty spaces in the adjacent one and for that reason, he would be opposed to the extension.

Council Member Scott asked whether the applicant was present. Mr. Galica indicated that they were not.

Mayor Lopez Rogers opened the public hearing. There being no requests to speak, Mayor Lopez Rogers closed the public hearing.

Vice Mayor McDonald moved to grant a time extension for the Papago Commerce Center PAD for one year from the date of expiration, until October 15, 2011, subject to the staff recommended stipulations. Council Member Weise seconded.

ROLL CALL VOTE AS FOLLOWS:

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

Motion failed 1-6.

City Council Regular Meeting – Excerpt of Meeting Minutes
February 22, 2011

10) PUBLIC HEARING AND ORDINANCE 1446-211 - ZONING REVERSION FOR PAPAGO COMMERCE CENTER

A public hearing and an ordinance reverting the Planned Area Development zoning of Papago Commerce Center located at the southeast corner of I-10 and El Mirage Road, which expired October 15, 2010, to its previous zoning classification of Agricultural.

Mr. Galica said this property is very similar to the previous item and is just to the north of it. The property is 11.1 acres. The Avondale Commerce Center is to the west, agricultural land is to the south, and undeveloped land is to the east. The property was rezoned from agriculture to PAD on October 15, 2007. On December 6, 2010 City Council denied a one-year extension request. Staff recommends approval of the rezoning.

Council Member Buster asked whether this parcel has new ownership. Mr. Galica explained that it is the same owner that requested the extension, but a different owner originally processed the PAD. The ownership change took place either in late 2009 or early 2010. Council Member Buster inquired how long it would take to get another project built near the freeway. Mr. Galica said the applicant would need to process a new development plan, regardless of whether it is reverted, since the PAD was not extended. The entire process would have to start over again. The only thing Council could do to make development easier would be to reconsider the extension.

Council Member Buster queried the amount of acreage that Avondale has along the freeway for development compared to Goodyear. Mr. Galica said Avondale has substantial undeveloped acreage south of, and directly adjacent to the freeway. Goodyear also has a similar amount of undeveloped property. Council Member Buster expressed concern that mishandling this prime land near the freeway would put Avondale at a competitive disadvantage.

Council Member Weise stated that the owners did not market the property. Avondale has plenty of property that is marketable with owners willing to market it. The company that owns this land is gigantic and this is but a miniscule part of their portfolio. Owners cannot put the onus on staff to market their property, and constantly request extensions when nothing has been done.

Mayor Rogers inquired whether Council wanted to consider postponing this item. Mayor Rogers opened the public hearing.

Mr. Mike Hurley, apologized that iStar did not appear at the extension request, under the assumption that the extension would be automatic. He clarified that the marketing effort was under Avondale Commerce Center, not Papago Commerce Center. When iStar got the property back one year ago, they invested about $800,000 in the property. Financing is available. There is much zoned but undeveloped acreage available along the freeway in Phoenix, Goodyear, Tolleson and Avondale.

Paul Sharp said iStar is a real estate investment trust from New York that both owns real estate and lends commercially. When iStar takes a property back, it is moved to the real estate side. iStar invested $800,000 in the Avondale Commerce Center. The company did not specifically market the site in question; focusing instead on an effort to market the greater overall development. Having existing space with a build-to-suit opportunity is a huge asset. The company is in the project for the long haul because no return on investment will be possible in the short term. The company is ready to invest in the property to make it successful. Streamlining the site plan process is essential to making Avondale competitive in a challenging market.

Council Member Weise said iStar dropped the ball. He stated that the leasing agent's response to his inquiry about marketing led him to conclude that the company was not serious about the project. He appreciates the investments made, but said he would not change his mind. Paul Sharp clarified that iStar did not have a leasing agent present.

Mayor Rogers closed the public hearing.

Council Member Buster proposed that this item be continued until March 7, arguing that the new owners did not understand the process. If an applicant makes no effort, that is regrettable, but this situation came about due to a misunderstanding. This is a critical piece of property along the freeway. It is incumbent upon Council to at least give the applicant more than six minutes to plead their case. Two weeks would be enough time to allow them to prepare a presentation to better state their case.

Vice Mayor McDonald said an ownership group with a portfolio of properties should understand exactly what they are doing. They should be able to tell Council with a fair amount of certainty, when they could fill that property. The process might have to start over again, but it has been streamlined. Mr. Galica clarified that the zoning process remains the same; it is the site plan process that has been streamlined. This property has not been through the site plan process yet. He suggested that if Council votes to approve the motion to continue the item, they should include reconsideration of the extension request.

Mayor Rogers inquired whether Council Member Buster would be allowed to bring this item back for reconsideration, given that he voted against it. Mr. Pennartz explained that it is not that type of reconsideration. Under the PAD ordinance itself, Council has the ability to also grant it an extension at the noticed hearing on the reversion. It is not a parliamentary motion for reconsideration; it is an ordinance provision.

Council Member Weise commented he agreed with giving iStar two weeks to provide detailed information on their marketing effort, the improvements they made, and the exact users they are looking to attract. Mayor Rogers inquired about the confusion over the name Papago Commerce Center. Mr. Galica explained that Papago was the name the previous developer used to differentiate this 11-acre parcel from their larger Avondale Commerce Center project. At some point it was combined into one large project.

Council Member Buster moved to continue this item until March 7th meeting, agendizing it for consideration of the extension request as well under the zoning ordinance 603(d)4. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

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

Motion carried 4-2.

City Council Regular Meeting – Excerpt of Meeting Minutes
March 7, 2011

4) PUBLIC HEARING AND ORDINANCE 1446-311 – ZONING REVERSION FOR PAPAGO COMMERCE CENTER FROM PAD TO AG FOR AN EXPIRED PAD (PL-11-0001)

A public hearing and an ordinance reverting the Planned Area Development (PAD) zoning of Papago Commerce Center, which expired October 15, 2010, to its previous zoning classification of Agricultural (AG). As an alternative, the City Council may reconsider a one year extension of the time condition for the Papago Commerce Center PAD through October 15, 2011.

Mr. McClendon recalled that this item was initially an action on the February 22nd agenda to revert the zoning of the Papago Commerce Center PAD because the request for extension had been denied at a previous meeting. At its February 22nd meeting the Council voted to continue this item to tonight's meeting. He introduced Ken Galica to present this item.

Mr. Galica said the property is 11.1 acres at the corner of I-10 and El Mirage Road. The General Plan designation is employment. It was originally rezoned from agricultural to PAD in October of 2007. The PAD expired on October 15, 2010, and on December 6 of 2010, the Council denied the applicants a one-year extension request. On February 22, Council voted 4 to 2 to continue the item to this meeting. The permitted uses in the development plan include professional office, manufacturing distribution, educational, research, medical/dental labs, wholesaling with limited commercial uses. The PAD refers to the zoning ordinance in terms of setting development standards.

There are three areas of non-conformance. The PAD contains its own set of specific building and site design standards that are less thorough than the City Design Manual. The PAD was also approved prior to adoption of the Public Art Ordinance. It also does not refer back to the zoning ordinance for outdoor lighting.

Staff recommends approval of PL-11-0001 reverting the property zoning from PAD to agricultural. If Council reconsiders, the recommendation is to approve the extension through October 15, 2011 with following four stipulations:

1. Unless listed below, all standards, requirements, and stipulations of the Papago Commerce Center PAD approval from October 15, 2007 shall remain in full force and effect.
2. Site and building design shall be in conformance with the City of Avondale Design Manual for Commercial, Industrial, and Multi-Family Residential Development. Where there are conflicts between the PAD's "Design Standards" and the City's Design Manual, the standards contained within the Design Manual shall supersede.
3. Outdoor site lighting shall be in conformance with City of Avondale Zoning Ordinance Section 707, Outdoor Lighting. Where there are conflicts between the PAD's lighting language and Zoning Ordinance Section 707, the language contained within Section 707 shall supersede.

4. Public art shall be provided in accordance with the Avondale Zoning Ordinance Section 11, Public Art.

Council Member Weise inquired about building size limits. Mr. Galica responded that building size is typically limited by the amount of landscaping and parking required. Land not occupied by landscaping and parking could be occupied by one large or a series of smaller buildings. Council Member Weise observed that larger buildings would attract larger users who would benefit from I-10 corridor exposure. Mr. Galica said it is conceivable that a large building could be built there, but he was uncertain of the plans. Council Member Weise said he voted against the extension because he felt some developers treat Avondale like a second class city. After speaking with the representatives, he understands the work they put into the buildings and have marketed the land. They have convinced him to change his mind on an extension, especially if it could attract a large user. Mr. Galica clarified that nothing in the PAD establishes a minimum building size.

Council Member Buster expressed support for a one-year extension. During the economic downturn, Avondale needs to stay competitive. The developers are trying to make the project work and the City should meet them halfway.

Mayor Rogers opened the public hearing.

Mr. Curley, on behalf of the applicant, said the current economy does not support anything getting built on spec. Projects have to be user driven. Virtually all the users considering the corridor are large users. He anticipates that the development could include a 130,000 square-foot building. The marketing effort on the property includes a website and open houses. He indicated that since the developer took over the property, the floors on two of the buildings have been finished, and 13 spec spaces have been built. By providing an extension on the vacant space, users could have the option of coming into an existing space or building a build-to-suit project on the vacant space. iStar has the ability to provide financing which is a benefit in this economy.

Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to grant the time extension for the Papago Commerce Center Planned Area Development (PAD) for one year from the date of expiration, until October 15, 2011, subject to the staff recommended stipulations; Council Member Karlin seconded the Motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Nay
Council Member Scott	Nay
Council Member Vierhout	Aye
Mayor Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 5-2.

City Council Regular Meeting – Excerpt of Meeting Minutes
January 17, 2012

4 PUBLIC HEARING - TIME EXTENSION FOR PAPAGO COMMERCE CENTER (DBA AVONDALE COMMERCE CENTER) PAD ZONING, ALTERNATIVELY ORDINANCE 1486-112 ZONING REVERSION

A public hearing and a request by Mr. Michael Curley, Earl, Curley, and Lagarde P.C., to extend the validity of the Papago Commerce Center Planned Area Development (PAD) for one year, until October 15, 2011. Alternatively, if the PAD zoning extension is not granted, the Council may adopt an Ordinance reverting the zoning of the property back to Agricultural (AG).

Ken Galica reviewed the particulars of this item as more specifically described in the Council report. He indicated staff is recommending approval of the application subject to the following stipulations

1. Unless listed below, all standards, requirements, and stipulations of the Papago Commerce Center PAD approval from October 15, 2007 shall remain in full force and effect.
2. Site and building design shall be in conformance with the City of Avondale Design Manual for Commercial, Industrial, and Multi-Family Residential Development. Where there are conflicts between the PAD's “Design Standards” and the City's Design Manual, the standards contained within the Design Manual shall supersede.
3. Outdoor site lighting shall be in conformance with City of Avondale Zoning Ordinance Section 707, Outdoor Lighting. Where there are conflicts between the PAD's lighting language and Zoning Ordinance Section 707, the language contained within Section 707 shall supersede.
4. Public art shall be provided in accordance with the Avondale Zoning Ordinance Section 11, Public Art.

Council Member Weise asked for rationale for the changes being requested. Mr. Galica responded that since the PAD was updated since 2007, there have been changes to the zoning ordinance, these changes are incorporated into the PAD by the stipulations being proposed.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Vice Mayor Karlin moved to grant the time extension for the Papago Commerce Center Planned Area Development (PAD) for one year from the date of expiration, until November 15, 2012, subject to the staff recommended stipulations. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Mayor Lopez Rogers	Aye
Vice Mayor Karlin	Aye
Council Member Buster	Aye
Council Member McDonald	Aye

Council Member Scott	Aye
Council Member Vierhout	Aye
Council Member Weise	Aye

Motion carried unanimously.

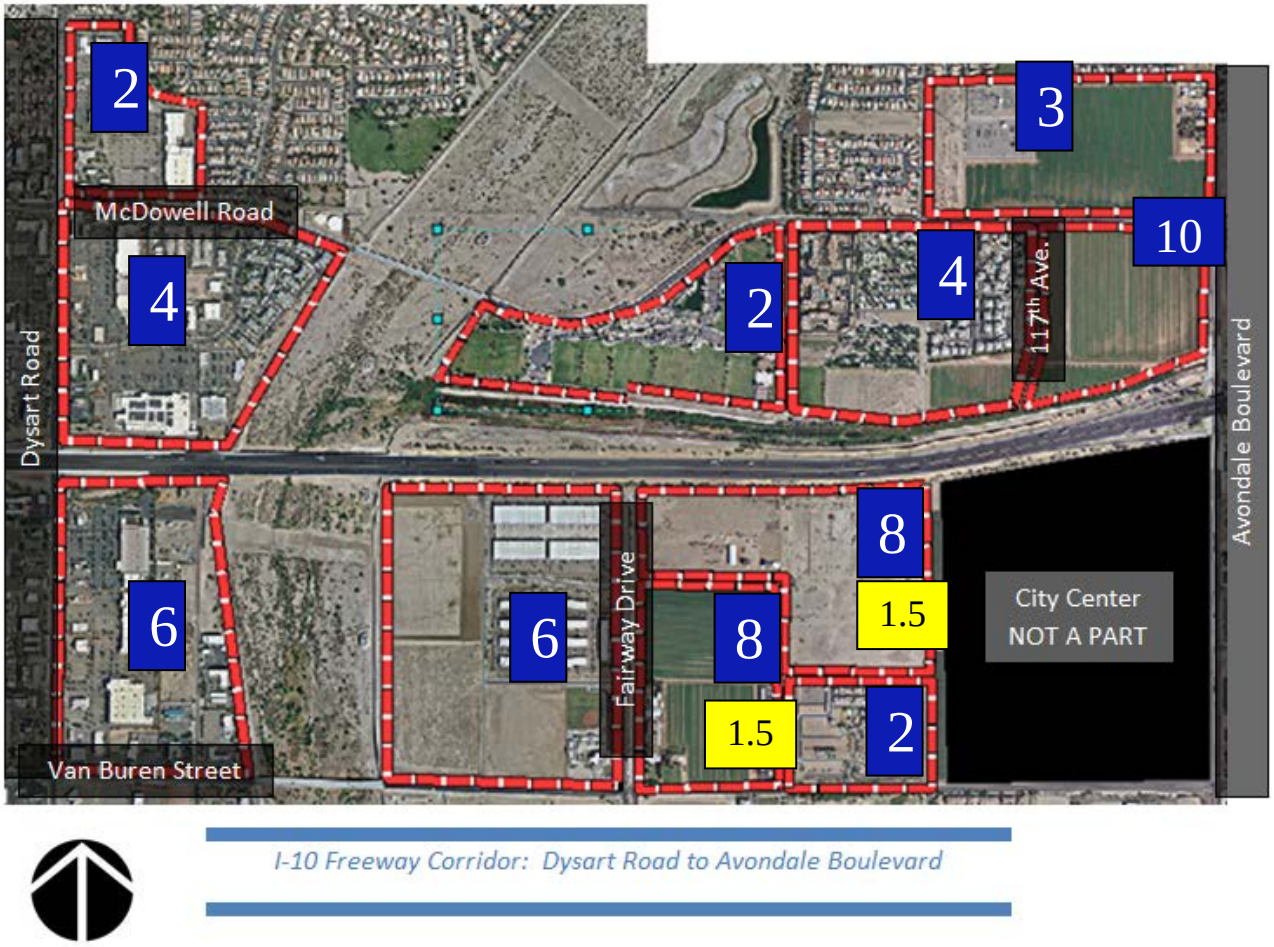
Exhibit K

III. FREEWAY CORRIDOR DESIGN AND DEVELOPMENT REQUIREMENTS

This section establishes design and development requirements intended to further the City's goals for the Freeway Corridor. Unless specifically exempted in Section IV (Implementation) below, development in the Freeway Corridor must adhere to the requirements contained in this section in addition to all design and development standards contained in the Avondale General Plan, Zoning Ordinance and adopted Design Manuals.

Site Development Thresholds:

- Development within the FCSP area must adhere to the maximum building heights and minimum floor area ratios (FARs) as shown on the following maps. Maximum building heights are listed, in stories, and are indicated on the maps in blue boxes. Minimum FARs are indicated on the maps in yellow boxes. If a FAR is not shown for a particular boundary area, those areas do not have a minimum FAR requirement. Adherence to minimum FARs will be required on a development site basis subject to the phasing allowances specified later in this document.



City of Avondale

August 19, 2013

CERTIFIED MAIL
1050 N EL MIRAGE ROAD – AVONDALE LLC
c/o IStar Financial
1501 East Orangethorpe Avenue, Suite 200
Fullerton, California 92831

RE: Papago Commerce Center Planned Area Development (PAD)
Reversion of Zoning to Agricultural (Case PL-13-0148)
SEC I-10 and Fairway Drive (formerly El Mirage Road)

To Whom It May Concern:

Avondale Zoning Ordinance Section 603.D specifies that Planned Area Development (PAD) zoning expires if development in that district has not commenced within the three years following the zoning approval. The Ordinance also allows for up to four one-year extensions to delay expiration. The Papago Commerce Center PAD was approved on October 15, 2007. Two one-year extensions were approved by the City Council extending the validity of the PAD through November 15, 2012. Because development did not occur on the property during the allotted time period, the PAD expired on November 15, 2012.

Upon expiration of a PAD, the City Council may revert the zoning of a property to its previous designation. As such, the Planning Division has initiated an application (PL-13-0148) to revert the zoning of the subject property to its previous zoning of Agricultural (AG). Please be aware that the City is processing this reversion solely to clarify the City's Zoning Map. Regardless of whether the property maintains its current expired PAD zoning or is reverted to AG, a future rezoning of the property will be required as the PAD Development Plan approved in 2007 has expired. City Council Approval of the reversion will not have any impact on development of the property.

This certified letter serves as official notification of the upcoming reversion hearing, scheduled for the City Council meeting of Monday, October 21st at 7:00 p.m. The meeting will occur in the City Council Chambers at Avondale City Hall, 11465 W. Civic Center Drive, Avondale, Arizona 85323. You are welcome to attend the meeting and address the City Council on this matter should you so desire. If you are unable to attend the meeting, any written comments submitted before the date of the meeting will be made part of the case file and shared with the City Council.

Development and Engineering Services Department
11465 W. Civic Center Drive, #110 • Avondale, AZ 85323
Phone: (623) 333-4000 • Fax: (623) 333-0400 • TDD: (623) 333-0010
www.avondale.org/developmentservices

City of Avondale

Please contact me should you have any questions about the upcoming proceedings or if you need any further assistance. I can be reached at (623) 333-4019 or emailed at kgalica@avondale.org.

Sincerely,

Ken Galica
Planner II

CC: Paul Sharp, IStar Financial (via email)
Mike Curley, Earl, Curley, and LaGarde PC (via email)

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

1050 N El Mirage Rd
c/o IStar Financial
1501 E Orangethorpe Ave
Suite 200
Fullerton, CA 92831

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature] ☐ Agent ☐ Addressee

B. Received by (*Printed Name*) [signature]

C. Date of Delivery 8-22

D. Is delivery address different from item 1? ☐ Yes
if YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number
(*Transfer from service label*)

PS Form 3811, August 2001 Domestic Return Receipt 2ACPRI-03-Z-0985

ORDINANCE NO. 1530-1013

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 11.1 ACRES GENERALLY LOCATED AT THE SOUTHEAST CORNER OF INTERSTATE 10 AND FAIRWAY DRIVE (FORMERLY EL MIRAGE ROAD), AS SHOWN IN FILENAME PL-13-0148, REVERTING THE ZONING ON SUCH PROPERTY FROM PLANNED AREA DEVELOPMENT (PAD) TO AGRICULTURAL (AG).

WHEREAS, the Council of the City of Avondale (the "City Council") approved Ordinance No. 1272-1007 on October 15, 2007, rezoning that certain ± 11.1 acre parcel of land generally located at the southeast corner of Interstate 10 and Fairway Drive (formerly El Mirage Road), as more particularly described and depicted in Ordinance No. 1272-1007, (the "Subject Property"), from Agricultural (AG) to Planned Area Development (PAD) and imposing conditions upon such rezoning (the "Rezoning"); and

WHEREAS, the Rezoning was subject to a condition imposed pursuant to provisions of the City of Avondale Zoning Ordinance (the "Zoning Ordinance"), requiring that development of the first phase of the project on the Subject Property must have commenced within three years of the effective date of the ordinance approving the PAD zoning on the property (the "Time Condition"); and

WHEREAS, the City Council approved two one-year extensions of the PAD zoning on March 7, 2011 and January 17, 2012; and

WHEREAS, the Time Condition upon the Rezoning has not been met and the City Council desires to revert the zoning on the Subject Property from Planned Area Development (PAD) to Agricultural (AG); and

WHEREAS, the City Council desires to amend the City of Avondale Zoning Atlas (the "Zoning Atlas") pursuant to ARIZ. REV. STAT. § 9-462.04 to reflect the change in zoning on the Subject Property due to the Rezoning reversion; and

WHEREAS, all due and proper notice of the public hearing held before the City Council on the intended Rezoning reversion and Zoning Atlas amendment were given in the time, form, substance and manner provided by the Zoning Ordinance; and

WHEREAS, the City Council held a public hearing regarding the Rezoning reversion and amendment to the Zoning Atlas on October 21, 2013.

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

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

SECTION 2. The ± 11.1 acre parcel of real property generally located at the southeast corner of Interstate 10 and Fairway Drive (formerly El Mirage Road), as shown in filename PL-13-0148, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from Planned Area Development (PAD) to Agricultural (AG) and the Zoning Atlas is hereby amended to reflect the Rezoning reversion from PAD to AG.

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

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

PASSED AND ADOPTED by the Council of the City of Avondale, October 21, 2013.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1530-1013

(Legal Description and Map)

See following pages.

SOUTHEAST CORNER OF INTERSTATE 10 AND FAIRWAY DRIVE

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PART OF THE WEST HALF OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 1, AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 0 DEGREES 37 MINUTES 11 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 1, A DISTANCE OF 113.39 FEET TO THE NORTHWEST CORNER OF THIS SAID PARCEL;

THENCE SOUTH 89 DEGREES 18 MINUTES 26 SECONDS EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE I-10 FREEWAY A DISTANCE OF 1321.86 FEET;

THENCE SOUTH 0 DEGREES 19 MINUTES 44 SECONDS EAST A DISTANCE OF 100.98 FEET TO THE INTERSECTION WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 1;

THENCE SOUTH 0 DEGREES 08 MINUTES 02 SECONDS EAST A DISTANCE OF 275.50 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 54 SECONDS WEST A DISTANCE OF 1322.91 FEET;

THENCE NORTH 0 DEGREES 13 MINUTES 52 SECONDS EAST A DISTANCE OF 264.81 FEET BACK TO THE TRUE POINT OF BEGINNING;

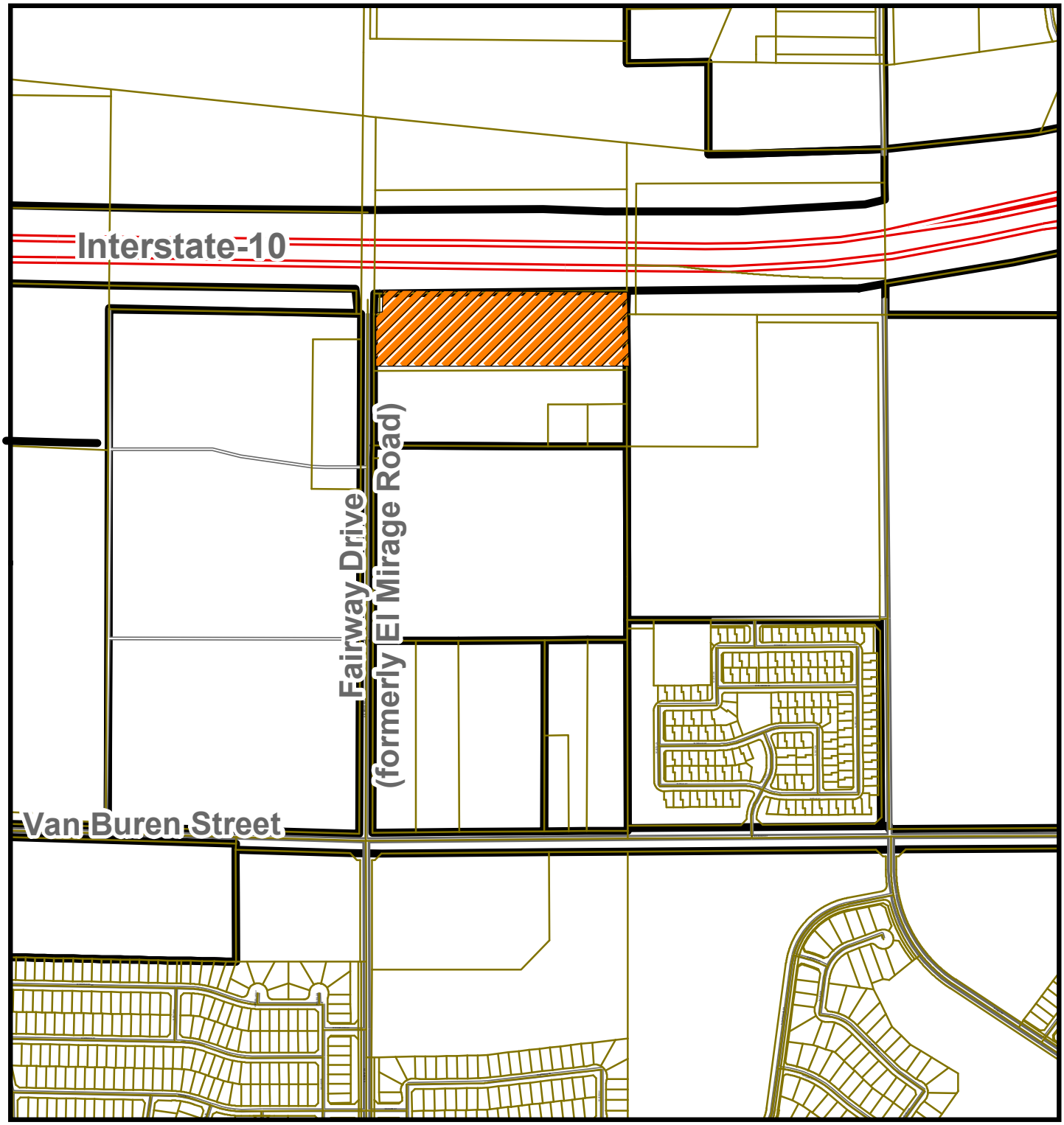
EXCEPT THAT PORTION WHICH LIES NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE WEST CORNER OF SAID SECTION 1:

THENCE NORTH 89 DEGREES 52 MINUTES 41 SECONDS EAST, 60.00 FEET;

THENCE NORTH 0 DEGREES 17 MINUTES 59 SECONDS EAST, 112.90 FEET;

THENCE SOUTH 89 DEGREES 34 MINUTES 21 SECONDS EAST, 1516.06 FEET TO THE POINT OF ENDING, AS CONDEMNED FOR STATE HIGHWAY PURPOSES BY INSTRUMENT RECORDED IN DOCUMENT NO. 83-348293, RECORDS OF MARICOPA COUNTY, ARIZONA. THE DESCRIPTION FOR THE EXCEPTION AREA IS ON A DIFFERENT BASIS OF BEARINGS THEREFORE THE BEARINGS MAY SLIGHTLY DIFFER.



Application PL-13-0148

Avondale

Subject Property

CITY COUNCIL REPORT

SUBJECT:
Amendments to Lease Agreements - Phoenix Speedway Corporation and University of Medical Sciences Arizona

MEETING DATE:
October 21, 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 the amendments for two (2) Lease Agreements with Phoenix Speedway Corporation d/b/a Phoenix International Raceway and University of Medical Sciences Arizona and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

The City of Avondale purchased the Avondale Corporate Center building on September 11, 2013. The office building is located at 125 S. Avondale Boulevard, on the Avondale Civic Center campus. When the purchase was completed, the city assumed the position as Landlord for the two (2) existing tenants in the building, Phoenix International Raceway and University of Medical Sciences Arizona.

DISCUSSION:

Many of the proposed changes within the leases are necessary because the city is a municipal corporation and is bound by certain statutory requirements, such as Conflict of Interest and Appropriations. Also, the new building is exempt from traditional property taxes, however the tenant leases fall under the Government Property Lease Exercise Tax (GPLET) provisions which are included in the annual operating expenses.

In addition to these general changes the city has provided an updated good faith estimate for the annual operating expenses for the building. The city extended the existing service agreements that are utilized for other city owned facilities. These services include janitorial, HVAC, elevator maintenance, alarm monitoring, window washing, trash removal and landscaping. The estimated annual expense is projected at $8.50/SF.

The University of Medical Sciences Arizona recently moved into the building and has a three (3) year lease that will expire at the end of 2016 but they have the option to extend the agreement for additional 3 years. There are no additional changes to this lease.

Phoenix International Raceway (PIR) has been the primary tenant in the building since it was constructed in 2004 and occupies 15,530 SF, approximately 50% of the building. In addition to the previously stated changes, PIR has agreed to extend their existing term for an additional four (4) years and will now expire on August 31, 2023. In consideration of the additional four (4) years the annual lease rates have been modified to reflect current market conditions.

Finally, staff is currently working to develop a Request for Proposals for Property Management Services. Staff believes that enlisting the services of a professional property management firm is the most cost effective manner in which to properly manage the buildings the city owns and leases. The Property Manager would be responsible for the day-to-day operational issues, and handle the billing and collection of monthly lease payments. The cost of management services would be allocated as an ongoing operating expense of the property.

BUDGETARY IMPACT:

The revenue derived from the leases, as they are currently proposed, is projected to generate approximately $2M over the 10-year period, with the majority generated from the PIR lease. There are currently two additional suites in the building that represent approximately 12,200 SF of leasable area. Staff has already started marketing this space by creating a brochure and has it listed on the commercial brokerage website COSTAR. The additional space is fully built out and would only require minor tenant improvement modifications depending on the end user. Staff believes there is a strong likelihood that additional leasing and revenue will be generated from these suites.

RECOMMENDATION:

Staff recommends that the City Council approve the amendments for two (2) Lease Agreements with Phoenix Speedway Corporation d/b/a Phoenix International Raceway and University of Medical Sciences Arizona and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Lease Amendment - Phoenix Speedway Corp.
- Lease Amendment - University of Medical Sciences AZ

SECOND AMENDMENT
TO
OFFICE LEASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
PHOENIX SPEEDWAY CORP.

THIS SECOND AMENDMENT TO OFFICE LEASE AGREEMENT (this "Second Amendment") is entered into as of the Effective Date, by and between the City of Avondale, an Arizona municipal corporation (the "Landlord") and Phoenix Speedway Corp., a Delaware corporation (the "Tenant"). Landlord and Tenant are referred to collectively as the "Parties." The "Effective Date" shall be the date upon which the last of the Landlord and Tenant execute this Second Amendment.

RECITALS

A. Landlord, as successor in interest, and Tenant entered into that certain Office Lease Agreement dated December 16, 2003, as amended by that certain First Amendment dated September 30, 2005, (collectively, the "Lease"), regarding that certain real property generally located at the southeast corner of Avondale Boulevard and Coldwater Springs in Avondale, Arizona. Unless otherwise defined, all capitalized terms shall have the meaning set forth in the Lease.

B. The Parties desire to amend the Lease as set forth in this Second Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and the faith full performance thereof and for other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereby agree to amend the Lease as follows:

1 Accuracy of Recitals. The Parties hereby acknowledge the accuracy of the Recitals which are incorporated herein by this reference.

2 Amendment to Lease. The Lease is hereby amended as follows:

(a) The Basic Lease Information as it relates to the "Term" is hereby deleted in its entirety and replaced as follows:

> "The term shall commence on September 1, 2004, which is the Commencement Date and expire on August 31, 2023, subject to adjustment and earlier termination as provided in Sections 30 and 31 of the Lease."

(b) The Basic Lease Information as it relates to the "Base Rent," Paragraph 1 is hereby deleted and replaced as follows:

"Base Rent shall be the following amounts for the following periods of time:

Lease Month	**Annual Base Rent Per Rentable Square Foot (not including Rent Tax)**
Effective Date – 8/31/2014	$16.08
9/1/2014 – 8/31/2016	$17.30
9/1/2016 – 8/31/2019	$18.30
9/1/2019 – 8/31/2023	$19.30"

(c) The Basic Lease Information as it relates to "Landlord's Address" is hereby deleted and replaced as follows:

"For all Notices:
City of Avondale
11465 West Civic Center Drive
Phoenix, Arizona 85323
Attention: Charlie McClendon

With a required copy to:
Gust Rosenfeld P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attention: Andrew J. McGuire, Esq."

(d) The last three sentences of Paragraph 8(b)(i) of the Lease is hereby deleted and replaced as follows:

"Notwithstanding anything to the contrary in the Lease, during the eighty-fifth (85th) Lease Month and in calendar year 2020 (assuming Tenant has not exercised its right to terminate this Lease as set forth below) Landlord shall install new building-standard carpet and paint (in colors reasonably selected by Tenant from colors provided by Landlord) in the Premises. Landlord shall bear all cost of carpet installation and painting, including, without limitation, the reasonable costs to move Tenant's furniture during the installation and painting. The carpet removal and installation and painting shall not be done during Normal Business Hours."

(e) Section 26(f) of the Lease is hereby deleted and replaced as follows:

"(f) Notices and Requests. Any notice or other communication required or permitted to be given under the Lease shall be in writing and shall be deemed to have been duly given if (1) delivered to the party at the address set forth below, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (3) given to a recognized and reputable overnight delivery service, to the address set forth in the Basic Lease Information Section of the Lease or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (3) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all

required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice."

(f) Section 28 of the Lease is hereby deleted and replaced as follows:

"28. Parking. Landlord shall provide 15 covered reserved parking spaces and two visitor parking spaces designated for Tenant's exclusive use at no cost to Tenant for the term of the Lease (and any extension thereof) as depicted and labeled "PIR Existing Parking" and "(6) Covered Reserved Parking" on Exhibit L attached to the Lease. To the extent available, Landlord shall provide Tenant, upon written request therefor, with up to eight additional covered, reserved parking spaces, at a cost of $35.00 per parking space per month, which amount, together with any and all applicable Rent Tax thereon shall be payable in advance by Tenant at the same time as Rent is payable hereunder. Landlord shall not permit Tenant's parking ration (i.e., 4 parking spaces for each 1,000 rentable square feet within the Premises) to be adversely affected by other prospective Building tenants or other tenants within the Project. Tenant shall not permit is population density within the Premises as a whole to adversely affect the parking ratio (i.e., 4 parking spaces for each 1,000 rentable square feet within the Premises) of other prospective Building tenants or other tenants within the Project."

(g) The following language is added to the end of the Lease as follows:

"Section 35. Landlord's Limitation. Notwithstanding anything in the Lease to the contrary, Tenant hereby agrees that Landlord's obligations, warranties, representations, indemnities, covenants and liabilities under the Lease and this Second Amendment shall be limited to the extent permitted by Arizona law."

Section 36. Conflict of Interest. This Lease is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Landlord may cancel this Lease without penalty or further obligations by the Landlord or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Lease on behalf of the Landlord or any of its departments or agencies is, at any time while the Lease or any extension of the Lease is in effect, an employee of any other party to the Lease in any capacity or a consultant to any other party of the Lease with respect to the subject matter of the Lease.

Section 37. Subject to Appropriations. This Lease is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Lease for payment of funds by the Landlord shall be effective when funds are appropriated for purposes of this Lease and are actually available for payment.

The Landlord shall be the sole judge and authority in determining the availability of funds under this Lease and the Landlord shall keep the Tenant fully informed as to the availability of funds for the Lease. The obligation of the Landlord to make any payment pursuant to this Lease is a current expense of the Landlord, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Landlord. If the Landlord's City Council fails to appropriate money sufficient to pay the amounts as set forth in this Lease during any immediately succeeding fiscal year, this Lease shall terminate at the end of then-current fiscal year and the Landlord and the Tenant shall be relieved of any subsequent obligation under this Lease."

(h) The first sentence of the first paragraph of Section 1 of Exhibit C is deleted and replaced to read as follows:

"In addition to Base Rent, Tenant shall pay to Landlord, the amount (per rentable square feet in the Premises) (the "Additional Rent") by which the annual Operating Costs (defined below) per rentable square foot in the Project for each year of the Term exceed the annual Operating Cost for the Project for previous calendar year (the "Base Year"); provided however, that commencing on November 1, 2013 the Base Year for 2013, for purposes hereof shall be $6.50 per rentable square foot."

(i) The following shall be added to the end of the third paragraph of Section 2 of Exhibit C to read as follows:

"Pursuant to Arizona Revised Statutes ("ARIZ. REV. STAT.") §§ 42-6201 et seq. (the "Excise Tax Statutes") the Building and the Project, will not be assessed property taxes because the City is fee owner of the Building and the Project. Pursuant to the Excise Tax Statutes, the Building and the Project is instead subject to the assessment or levy of a government property lease excise tax (the "GPLET"). The GPLET is calculated in accordance with the provisions of ARIZ. REV. STAT. § 42-6203. Notwithstanding anything to the contrary contained herein or elsewhere in the Lease, the GPLET shall be deemed to be included in the definition of Taxes as part of the Operating Costs under the Lease as detailed in Section 2 of Exhibit C. In addition to paying Tenant's proportionate share of Taxes as part of the Operating Costs according to the terms of Section 2 of Exhibit C, Tenant shall pay all taxes applicable to all other property in the Premises that is not taxed as real property. Failure of Tenant to pay the GPLET after notice and an opportunity to cure is an Event of Default under the Lease that could result in the termination of Tenant's interest in the Lease and of its right to occupy the Premises. Tenant shall remit all GPLET to Landlord and Landlord shall submit annual payments to the Maricopa County Treasurer's Office."

(j) Exhibit L of the Lease is hereby deleted and replaced with Exhibit L attached to this Second Amendment.

3 Estimate of Operating Costs Acknowledgement. Tenant hereby acknowledges Landlord's good faith estimate of the Operating Costs of the Project for 2013 to be $8.50 per rentable square foot, of which Tenant shall be responsible for $6.50 per rentable square foot as Operating Costs for the Premises, in accordance with the provisions of Section 1 of Exhibit C of the Lease. Tenant hereby agrees to pay Landlord on a monthly basis, the amount of $2,588.33 ($2.00 per rentable square foot/12 months) as Additional Rent for the Premises, starting November 1, 2013.

4 Memorandum of Lease Acknowledgement. Tenant hereby acknowledges that in accordance with ARIZ. REV. STAT. § 42.6202(C), Landlord will record a memorandum of the Lease and this Second Amendment in the Maricopa County Recorder's Office.

5 Guaranty of Lease. Contemporaneously with the execution of this Second Amendment, Tenant shall cause International Speedway Corporation, a Florida corporation, to execute and deliver to Landlord the Guaranty of Lease in the form in Exhibit I of the Lease.

6 Brokerage Fees. Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation of this Second Amendment, other than the Hogan Group LLC, Matthew A. Lyons, PLLC (the "Broker"), who represents the Tenant and who shall be compensated by Tenant under a separate agreement. Landlord shall compensate Broker in the amount of $59,945.80. Tenant shall indemnify, defend and hold Landlord harmless for, from and against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through or under Tenant. Landlord shall indemnify, defend and hold Tenant harmless for, from and against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through or under Landlord. The foregoing indemnities shall survive the expiration or earlier termination of the Lease.

7 Effect of Amendment. Except as specifically modified by this Second Amendment, the Lease remains in full force and effect and is in all events ratified, confirmed and approved.

8 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Second Amendment and the Lease, the documents shall govern in the order listed herein.

9 Non-Default. By executing this Second Amendment, the Tenant affirmatively asserts that (i) the City is not currently in default, nor has been in default at any time prior to this Second Amendment, under any of the terms or conditions of the Lease and (ii) any and all claims, known and unknown, relating to the Lease and existing on or before the date of this Second Amendment are forever waived.

10 Counterparts. This Second Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment as of the last date set forth under the signatures of the Parties below.

"LANDLORD"

CITY OF AVONDALE, an
Arizona municipal corporation

_____
Charles P. McClendon, City Manager

Date:_____

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2013, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"TENANT"

Phoenix Speedway Corp., a Delaware corporation

By:_____

Name:_____

Title:_____

Date:_____

(ACKNOWLEDGMENT)

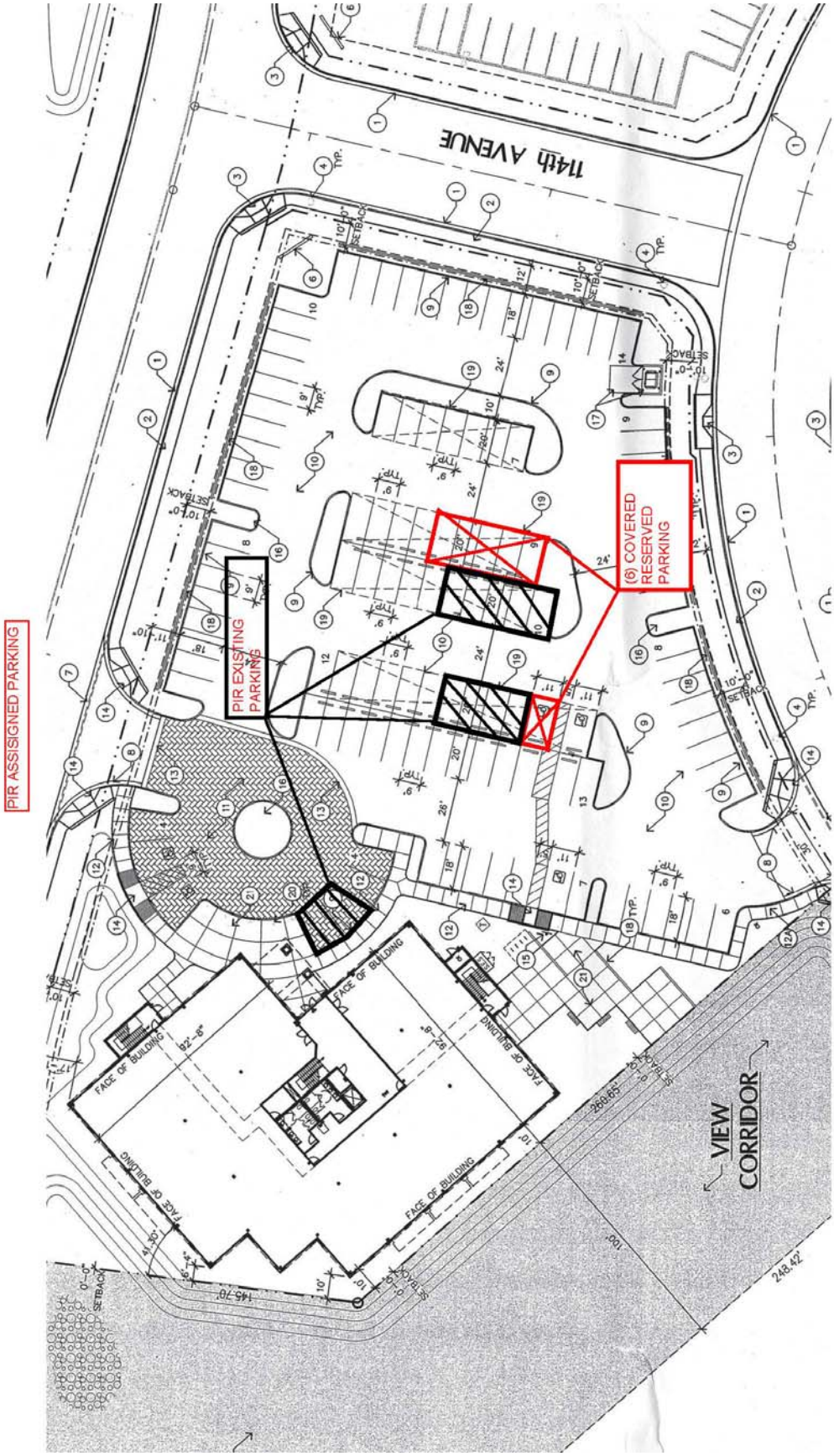
STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2013, by _____, as _____ of PHOENIX SPEEDWAY CORP., a Delaware corporation, on behalf of the corporation.

_____
Notary Public in and for the State of _____

(affix notary seal here)

EXHIBIT L


PIR ASSISIGNED PARKING
PIR EXISTING PARKING
(6) COVERED RESERVED PARKING
114th AVENUE
FACE OF BUILDING
VIEW CORRIDOR

FIRST AMENDMENT
TO
OFFICE LEASE
BETWEEN
THE CITY OF AVONDALE
AND
UNIVERSITY OF MEDICAL SCIENCES ARIZONA

THIS FIRST AMENDMENT TO OFFICE LEASE (this "First Amendment") is entered into as of the Effective Date by and between the City of Avondale, an Arizona municipal corporation ("Landlord"), and University of Medical Sciences Arizona, an Arizona nonprofit corporation ("Tenant"). Landlord and Tenant are referred to collectively as the "Parties." The "Effective Date" shall be the date upon which the last of the Landlord and Tenant execute this First Amendment.

RECITALS

A. Landlord, as successor in interest, and Tenant entered into that certain Office Lease dated February 27, 2013 (the "Lease"), regarding that certain real property generally located at the southeast corner of Avondale Boulevard and Coldwater Springs in Avondale, Arizona. Unless otherwise defined, all capitalized terms shall have the meaning set forth in the Lease.

B. The Parties desire to amend the Lease as set forth in this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and the faith full performance thereof and for other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereby agree to amend the Lease as follows:

1. Accuracy of Recitals. The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.

2. Amendment to Lease. The Lease is hereby amended as follows:

(a) Paragraph 1.13, "Parking Spaces," is hereby deleted in its entirety and replaced as follows:

> "1.13 Parking Spaces: Parking ratio of 4 parking spaces per 1,000 rentable square feet of the Premises for Tenant's non-exclusive use, and two (2) reserved, covered parking spaces for Tenant's use (see **Paragraph 7**), as more particularly set forth and labeled "(2) COVERED RESERVED PARKING" in the Parking Map attached hereto as Schedule 9."

(b) Paragraph 1.15, "Address for payment of Rent and Notices," is hereby deleted in its entirety and replaced as follows:

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

Tenant:
University of Medical Sciences Arizona
125 South Avondale Boulevard, Suite 105
Avondale, Arizona 85323
Attn: Kenneth Pitts

With a copy of notices only to:
Gust Rosenfeld P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attention: Andrew J. McGuire, Esq."

(c) The following shall be added to the end of Paragraph 2.2(d), as follows:

"Pursuant to Arizona Revised Statutes ("ARIZ. REV. STAT.") §§ 42-6201 et seq. (the "Excise Tax Statutes"), the Building and the Project will not be assessed property taxes because the City is the fee owner of the Building and the Project. Pursuant to the Excise Tax Statutes, the Building and the Project are instead subject to the assessment or levy of a government property lease excise tax (the "GPLET"). The GPLET is calculated in accordance with the provisions of ARIZ. REV. STAT. § 42-6203. Notwithstanding anything to the contrary contained herein or elsewhere in the Lease, the GPLET shall be deemed to be included in the definition of Taxes as part of the Operating Expenses under the Lease as detailed in Paragraph 2.2. In addition to paying Tenant's Percentage Share of the Taxes as part of the Operating Expenses according to the terms of this Paragraph, Tenant shall pay all taxes applicable to all other property in the Premises that is not taxed as real property. Failure of Tenant to pay the GPLET after notice and an opportunity to cure is an Event of Default under the Lease that could result in the termination of Tenant's interest in the Lease and of its right to occupy the Premises. Tenant shall remit all GPLET to Landlord and Landlord shall submit annual payments to the Maricopa County Treasurer's Office."

(d) The following shall be added to the end of Paragraph 11.2, "Limitations," as follows:

"All work affecting the roof of the Building must be performed by Landlord's roofing contractor or a contractor approved by Landlord, and no such work will be permitted if it would void or reduce the warranty on the roof."

(e) The following shall be added to the end of Paragraph 30, "Notices," as follows:

> "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."

(f) The following Paragraphs shall be added to the end of the Lease as follows:

> "57. Landlord's Limitation. Notwithstanding anything in the Lease to the contrary, Tenant hereby agrees that Landlord's obligations, warranties, representations, indemnities, covenants and liabilities under the Lease and this First Amendment shall be limited to the extent permitted by Arizona law.
>
> 58. Conflict of Interest. This Lease is subject to the provisions of ARIZ. REV. STAT. § 38-511. Landlord may cancel this Lease without penalty or further obligations by Landlord or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Lease on behalf of Landlord or any of its departments or agencies is, at any time while the Lease or any extension of the Lease is in effect, an employee of any other party to the Lease in any capacity or a consultant to any other party of the Lease with respect to the subject matter of the Lease.
>
> 59. Subject to Appropriations. This Lease is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Lease for payment of funds by Landlord shall be effective when funds are appropriated for purposes of this Lease and are actually available for payment. Landlord shall be the sole judge and authority in determining the availability of funds under this Lease and Landlord shall keep Tenant fully informed as to the availability of funds for the Lease. The obligation of Landlord to make any payment pursuant to this Lease is a current expense of Landlord, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of Landlord. If Landlord's City Council fails to appropriate money sufficient to pay the amounts as set forth in this Lease during any immediately succeeding fiscal year, this Lease shall terminate at the end of then-current fiscal year and Landlord and Tenant shall be relieved of any subsequent obligation under this Lease."

(g) Schedule 9 attached to this First Amendment is hereby incorporated into the Lease as Schedule 9.

3. Estimate of Operating Expenses Acknowledgment. Tenant hereby acknowledges Landlord's good faith estimate of the Operating Expenses of the Building for 2014 to be $8.50

per rentable square foot, of which Tenant shall be responsible for Tenant's Percentage Share of the Operating Expenses paid or incurred by Landlord in such year in excess of the Operating Expenses for the Base Year ($6.74 per square foot). Tenant hereby agrees to pay Landlord on a monthly basis, the amount of $478.87 ($1.76 per rentable square foot/12 months) as Operating Expenses Rent, starting January 1, 2014.

4. Memorandum of Lease Acknowledgment. Tenant hereby acknowledges that in accordance with ARIZ. REV. STAT. § 42-6202(C), Landlord will record a memorandum of the Lease and this First Amendment in the Maricopa County Recorder's Office.

5. Brokerage. Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation of this First Amendment. Tenant shall indemnify, defend and hold Landlord harmless for, from and against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through or under Tenant. The foregoing indemnities shall survive the expiration or earlier termination of the Lease.

6. Effect of Amendment. Except as specifically modified by this First Amendment, the Lease remains in full force and effect and is in all events ratified, confirmed and approved.

7. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this First Amendment and the Lease, the documents shall govern in the order listed herein.

8. Non-Default. By executing this First Amendment, Tenant affirmatively asserts that (i) Landlord is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Lease and (ii) any and all claims, known and unknown, relating to the Lease and existing on or before the date of this First Amendment are forever waived.

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[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the last date set forth under the signatures of the Parties below.

"LANDLORD"

CITY OF AVONDALE, an
Arizona municipal corporation

_____
Charles P. McClendon, City Manager

Date:_____

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2013, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"TENANT"

UNIVERSITY OF MEDICAL SCIENCES ARIZONA,
an Arizona nonprofit corporation

By:_____

Name:_____

Title:_____

Date:_____

(ACKNOWLEDGMENT)

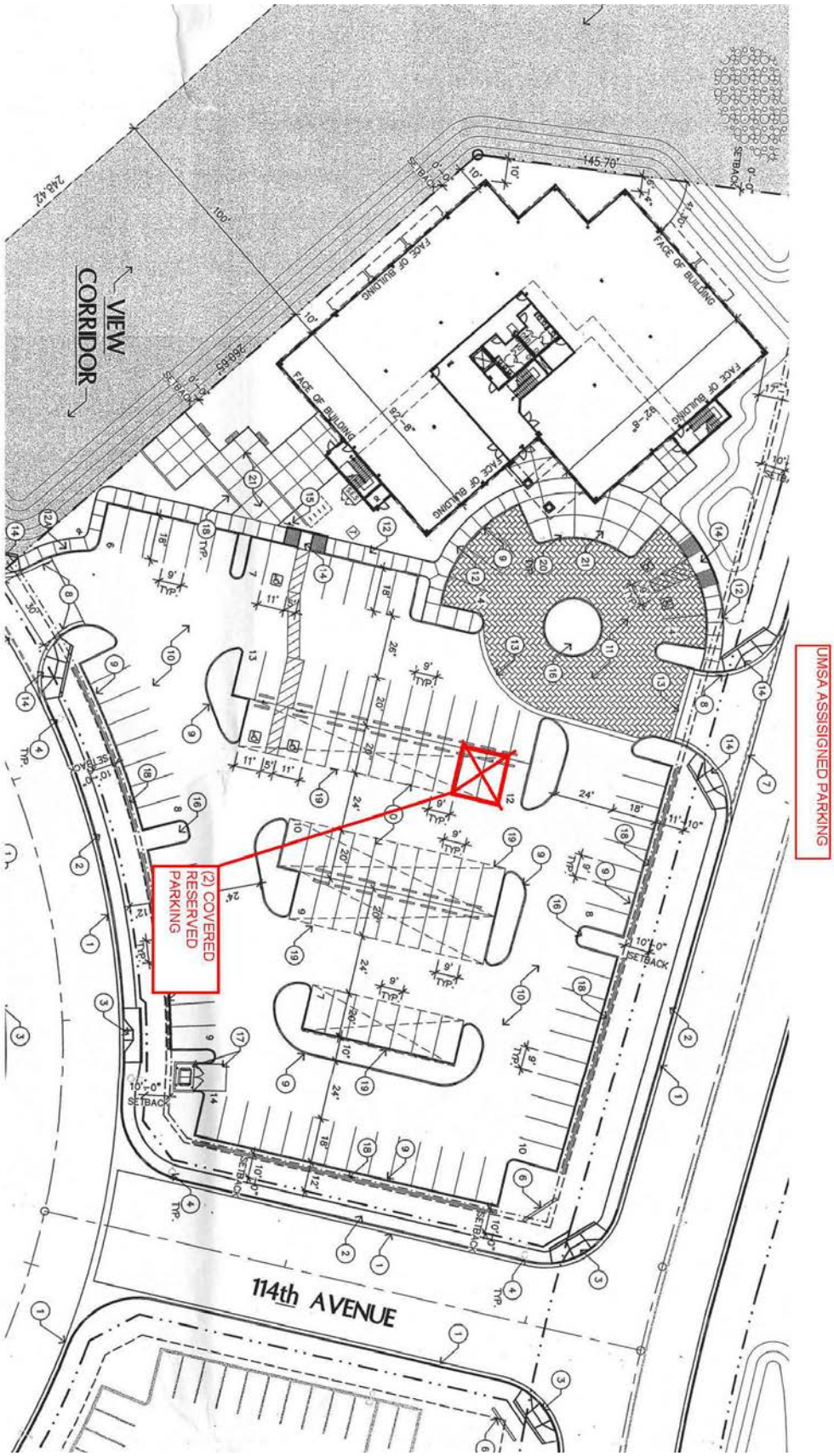
STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2013, by _____, as _____ of UNIVERSITY OF MEDICAL SCIENCES ARIZONA, an Arizona nonprofit corporation, on behalf of the corporation.

_____
Notary Public in and for the State of _____

(affix notary seal here)

SCHEDULE 9


UMSA ASSIGNED PARKING
(2) COVERED RESERVED PARKING
VIEW CORRIDOR
114th AVENUE
FACE OF BUILDING
SETBACK
145.70'
248.42'
264.65'
100'

CITY COUNCIL REPORT

SUBJECT:
Designation of Voting Delegates for NLC Annual Business Meeting

MEETING DATE:
October 21, 2013

TO: Mayor and Council

FROM: Carmen Martinez, City Clerk (623) 333-1214

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Council will designate a primary and an alternate voting delegate to represent Avondale at the National League of Cities' Annual Business Meeting to be held at the conclusion of the Congress of Cities in Seattle, Washington on Saturday, November 16, 2013.

BACKGROUND:

The National League of Cities Annual Business Meeting will be held at the conclusion of the Congress of Cities and Exposition in Seattle, Washington on Saturday, November 16, 2013.

Based on population as of the 2010 Census, the City of Avondale is entitled to cast one vote at the meeting. The NLC bylaws require that voting delegates be officially designated by the City Council in order to be eligible to cast the City's vote at the meeting.

DISCUSSION:

Mayor Rogers will step down as President of the National League of Cities during this meeting and several Council Members will be in attendance. It will therefore be appropriate for the Council to accept nominations and vote to appoint one primary and one alternate voting delegate.

RECOMMENDATION:

Staff is recommending that the Council nominate and appoint a primary and an alternate voting delegate to represent Avondale at the National League of Cities' Annual Business Meeting to be held at the conclusion of the Congress of Cities in Seattle, Washington on November 16, 2013.

ATTACHMENTS:

Click to download

No Attachments Available