CITY COUNCIL AGENDA

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

REGULAR MEETING
January 6, 2014
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 - Sandy Lopez, Executive Management Assistant for the Mayor and Council Office.

3 UNSCHEDULED PUBLIC APPEARANCES

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

4 CONSENT AGENDA

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

a. APPROVAL OF MINUTES
Budget Meeting of December 9, 2013

b. FOURTH AMENDMENT TO SOFTWARE SERVICES AGREEMENT - INFOR (US), INC. FOR ASSET MANAGEMENT SYSTEM UPGRADE
City Council will consider a request to approve the fourth amendment to the Software Services Agreement with Infor (US), Inc., for an amount not to exceed $30,000, to upgrade the Public Works Department's asset management and maintenance software and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

c. PURCHASE AGREEMENT - REAL PROPERTY LOCATED AT 305 E. HILL DRIVE
City Council will consider a purchase agreement for the acquisition of 305 E. Hill Drive (APN 500-17-081) and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

5 RESOLUTION 3158-114 - ADOPTION OF COUNCIL GOALS FY 2014-15

City Council will consider a resolution establishing Council goals for fiscal year 2014-2015. The Council will take appropriate action.

6 EXECUTIVE SESSION

a. City Council may hold an executive session pursuant to (i) Ariz. Rev. Stat. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City's Attorney regarding potential litigation with respect to tax matters, and (ii) Ariz. Rev. Stat. § 38-431.03 (A)(1) for discussion regarding the City Manager's evaluation.

7 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.

CITY COUNCIL REPORT

SUBJECT:
New Employee Introduction - Sandy Lopez, Executive Management Assistant for the Mayor and Council Office

MEETING DATE:
January 6, 2014

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

The City Manager will introduce Sandy Lopez as the new Executive Management Assistant for the Mayor and Council Office

BACKGROUND:

The Executive Management Assistant for the Mayor and Council Office is housed within the Community Relations & Public Affairs Department. The position provides professional support to the Mayor and Council, carrying out highly responsible and complex assignments to accomplish their goals. The position also performs duties involved in the research and analysis of complex municipal policy issues for the Mayor and City Council, and serves as a communication and policy liaison between the City Council, the City Manager's Office, other City departments, the general public and external organizations.

DISCUSSION:

Sandy Lopez, who as worked for the City of Avondale since 2007 -- most recently as the CDBG Program Manager in the Neighborhood and Family Services Department -- was selected after an internal recruitment to fill the vacancy for Executive Management Assistant or the Mayor and Council Office. As CDBG Program Manager, Sandy administered the HUD grants the city received, and was a key player in the development of the Hill Drive/Legacy Avondale project.

Her promotion to this new role is in keeping with the Council's goal for FY 2014-2015 under Staff Retention to encourage "growth from within practices." Sandy joins the Community Relations & Public Affairs Department on Jan. 6, 2014.

BUDGETARY IMPACT:

This is an existing FTE within the Community Relations & Public Affairs Department.

RECOMMENDATION:

None. For Council update only.

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Approval of Minutes

MEETING DATE:
January 6, 2014

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Budget Meeting of December 9, 2013

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Fourth Amendment to Software Services Agreement - Infor (US), Inc. for Asset Management System Upgrade

MEETING DATE:
January 6, 2014

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 fourth amendment to the Software Services Agreement between the City of Avondale and Infor (US), Inc., for an amount not to exceed $30,000, to upgrade the Public Works Department's asset management and maintenance software.

BACKGROUND:

The City of Avondale originally purchased Infor's Enterprise Asset Management (EAM) product in 2008. The software is used by the Public Works Department to increase the reliability of its equipment and related assets through management of preventative and emergency maintenance tasks, strong inventory administration, and predictive maintenance projections. EAM is a core part of the Public Works Department's sustainability efforts to manage significant municipal assets optimally.

The City originally entered into a software services agreement, contract number 13827c with Infor (US), Inc.,on March 11, 2008. Three amendments were executed for professional services between September 2009 and September 2011. If approved, this agreement will constitute the fourth amendment.

DISCUSSION:

The services defined in the statement of work of the proposed contract amendment cover execution of an upgrade of EAM form version 8.5 to version 10.1. City staff requires assistance with installation, configuration, and implementation while keeping operational issues for Public Works to a minimum. Infor will help City staff convert a significant number of customer configurations.

It will be Infor's responsibility to ensure that the upgrade is fully operational and accepted. Responsibility for functional testing will be the City's obligation. The City will also provide access and assistance with the installation, configuration, and implementation of Infor EAM 10.1. The City is emphasizing this cooperative work structure in the upgrade process to address the long-term documentation and support needs of the City. Staff's intent is to curtail dependence on vendors and consequent service spending.

A Competition Impractical Determination was approved by the City's Procurement Office due to the absence of experienced third-party vendors that can perform EAM version 10 upgrades.

BUDGETARY IMPACT:

Cost for the project is set as up to $30,000. Funding for the proposed software services agreement with Infor (US), Inc., is through the Public Works Department operating budgets, under Water Administration and Wastewater Administration.

RECOMMENDATION:

Staff recommends that the Mayor and City Council approve the fourth amendment to the Software Services Agreement with Infor (US), Inc., for an amount not to exceed $30,000, to upgrade the Public Works Department's asset management and maintenance software and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Agreement - Infor Global (US) - Fourth Amendment Software Services Agreement

FOURTH AMENDMENT
TO
SOFTWARE SERVICES AGREEMENT
BETWEEN
INFOR (US), INC.
AND
THE CITY OF AVONDALE

THIS FOURTH AMENDMENT (the "Fourth Amendment") is made as of November 25, 2013, between the City of Avondale, an Arizona municipal corporation (the "Licensee") and Infor (US), Inc., a Delaware corporation, as successor to Infor Global Solutions (Michigan), Inc., a Michigan corporation ("Infor").

RECITALS

A. The Licensee and Infor entered into a Software Services Agreement, Contract No. 13827C, effective as of March 11, 2008 (the "Software Services Agreement"), as amended by (i) that certain Amendment No. 1, effective as of March 11, 2008, in conjunction with that certain First Work Order, effective March 11, 2008 (the "First Amendment"), (ii) that certain Second Amendment, effective as of September 30, 2009, in conjunction with that certain Second Work Order, effective as of September 30, 2009 (the "Second Amendment") and (iii) that certain Third Amendment, dated September 6, 2011, in conjunction with that Third Work Order, effective as of September 7, 2011 (the "Third Amendment"). Collectively, the Software Services Agreement, First Amendment, Second Amendment and Third Amendment are referred to herein as the "Existing Agreement." All of the capitalized terms not otherwise defined in this Fourth Amendment have the same respective meanings as contained in the Existing Agreement.

B. The Licensee has determined that additional services are required under the Existing Agreement to upgrade the Public Work's Department's Enterprise Asset Management System (the "Additional Services"). Pursuant to the Avondale Procurement Policy, Section 13.2, the Licensee has determined that Infor is the reasonable and practicable source to provide the Additional Services and a competitive solicitation for the Additional Services is not in the best interest of the Licensee, 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 Fourth Amendment to (i) authorize the Additional Services and (ii) provide for compensation to Infor 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 Licensee and Infor hereby agree to amend the Existing Agreement as follows:

1. Scope of Services. Infor shall perform the Additional Services as set forth on the Fourth Work Order, attached hereto as Exhibit B and incorporated herein by reference.

2. Compensation. The Licensee shall pay Infor an aggregate amount not to exceed $30,000.00 for the Additional Services as set forth in the Fourth Work Order, attached hereto as Exhibit B. Infor will not provide services in excess of the amount set forth in the Fourth Work Order, attached hereto as Exhibit B, without a duly executed change order.

3. Agreement Subject to Appropriation. The provisions of this Fourth Amendment and the Existing Agreement for payment of funds by the Licensee shall be effective when funds are appropriated for purposes of this Fourth Amendment and are actually available for payment. The Licensee shall be the sole judge and authority in determining the availability of funds under this Fourth Amendment and the Licensee shall keep Infor fully informed as to the availability of funds for the Fourth Amendment. The obligation of the Licensee to make any payment pursuant to this Fourth 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 Licensee's City Council fails to appropriate money sufficient to pay the amounts as set forth in this Fourth Amendment during any immediately succeeding fiscal year, this Fourth 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 Fourth Amendment and the Existing Agreement.

4. Non-Default. By executing this Fourth Amendment, Infor, to its reasonable knowledge, affirmatively (i) asserts that the Licensee is not currently in default and is not aware of any default at any time prior to this Fourth Amendment, under any of the terms or conditions of the Existing Agreement and (ii) waives any and all claims relating to the Existing Agreement and existing on or before the date of this Fourth Amendment except for those based on any breach of confidentiality, Infor's intellectual property rights or misuse of any software license outside the scope of the Existing Agreement.

5. 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.

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

[SIGNATURES ON FOLLOWING PAGE]

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

"Licensee"

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 _____, 201__, 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)

“Infor”

INFOR (US), INC., a Delaware corporation, as successor to Infor Global Solutions (Michigan), Inc., a Michigan corporation

By: _____

Name: _____

Title: _____

(ACKNOWLEDGMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 201_, by _____, as _____ of INFOR (US), INC., a Delaware corporation, as successor to Infor Global Solutions (Michigan), a Michigan corporation, on behalf of the corporation.

_____
Notary Public in and for the State of _____

(affix notary seal here)

EXHIBIT A
TO
FOURTH AMENDMENT
TO
SOFTWARE SERVICES AGREEMENT
BETWEEN
INFOR (US), INC.
AND
THE CITY OF AVONDALE

[Competition Impractical Determination Form]

See following pages.

Competition Impractical Determination Form

Department:	Justification Prepared by:	Phone Number:
Information Technology	Micah Leigh	x5016

Description:

Contract for Infor EAM upgrade from version 8.5 to 10.1.2 on both the test and production servers (Submitted by IT for PW)

Vendor Name:	Infor (US), Inc.	Vendor Contact:	Geoffrey Cheek
Vendor Address:	Dept. 847798, Los Angeles, CA 90084-7798	Phone:	864-422-5523

Justification

Method of Determination: Evaluation of available alternatives

Explanation of Determination (Required)

This is a major upgrade to EAM and Infor is best positioned to assist through their professional services group. This version of the EAM upgrade is recent, which limits the amount of vendors with adequate experience. A generalist EAM consultant procured through a competitive procurement would have a much higher risk of failing than the software vendor itself. Going through Infor for these services diminishes some of the risk associated with such upgrades.

Infor (US), Inc., lists one Partner Company that services Arizona for EAM. The specific industries that Xoriant specializes in are financial services, hi-tech, telecommunications and healthcare. When discussing their product affiliation with Infor, they also focus in on Infor's Warehouse Management System (WMS), which the City does not use. Xoriant's experience with Infor EAM is based on a different function of the program.

Avondale has built many customizations throughout the years with vendors. The previous staff did not track these changes and the City requires assistance to move the modifications cleanly. The new IS Analyst for Public Works will be documenting the modification process and customizations to put the City in a stronger position for maintenance heading forward.

This upgrade will preserve many years of investment by Public Works into customizing EAM to improve the system to match its operations, thus preserving the operational gains in preventative maintenance activities, inventory control, and reducing the occurrences of emergency maintenance incidences.

Funding Considerations

Estimated Cost: $30,000 plus taxes

Price Negotiated: ☒ Yes ☐ No Explain: Infor has agreed to upgrade both the test and production servers ...

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

Budget Availability: Council approval required

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

Micah Leigh		11/13/2013
Employee Name	Signature	Date

11/13/13

Department Head Approval

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

Procurement Office Use Only

☐ Request Denied
☐ Requires More Info

Return Date:

☒ Request in accordance with AP-23

Procurement Agent Comments:

Finance & Budget Approval

Date

EXHIBIT B
TO
FOURTH AMENDMENT
TO
SOFTWARE SERVICES AGREEMENT
BETWEEN
INFOR (US), INC.
AND
THE CITY OF AVONDALE

[Fourth Work Order]

See following pages.

SERVICES WORK ORDER

This Services Work Order ("Work Order or SOW") is subject to all terms and conditions of the Software Services Agreement between **Infor (US), Inc.** ("Infor") and City of Avondale ("Licensee") with an Effective Date of March 11, 2008 (the "Services Agreement"). All terms of the Services Agreement are incorporated herein by this reference. Capitalized terms not defined in this Work Order are defined in the Services Agreement. In the event of a conflict, the terms of this Work Order control over the terms of the Services Agreement.

Effective date of this Work Order: 10/31/2013 Work Order Number: AVONDALE UPGRADE1 20131031

Prepared By: Geoff Cheek Approved By: Cris Thompson

Project Name:	Infor EAM Upgrade
Objective:	Infor Consulting Services to upgrade Licensee's Infor EAM application to v10.1.2

Project Scope

Infor will conduct an evaluation execution and a production execution of a standard upgrade of the Licensee's EAM application to the 10.1.2 version. Specific tasks are outlined below:

- Project Kick-Off Call and Hardware Readiness Discussion – **4 hours**
  - A call led by the Infor Project Manager with the Licensee Core Team (including a representative from IT) to discuss scheduling, confirm scope and deliverables, and verify that minimum hardware specifications are in place prior to the upgrade itself.
- EAM 10.1.2 Evaluation Run – **40 hours**
  - The Infor Technical Consultant will install Infor EAM 10.1.2 and migrate the existing database into the TEST environment.
  - Licensee will perform User Acceptance Testing on data and configurations and sign-off when UAT is satisfactory.
  - Any issues with the data post-migration should be brought up to the Infor Technical Consultant at this time so that modifications and adjustments can be made prior to the Production upgrade.
- EAM 10.1.2 Production Run – **40 hours** (may be updated based on evaluation run)
  - Based on the evaluation run, the Infor Technical Consultant will replicate the migration path from the evaluation run onto the PRODUCTION environment.
  - This production run will incorporate any modifications or changes to the approach based on the success and testing/quality assurance of the evaluation run.
  - The PROD run involves system downtime that will be planned and scheduled in advance by the Infor and Licensee teams. If nights or weekend hours are required to minimize the impact on the users, then overtime rates will apply.
  - Upon completion of the PROD upgrade, the Licensee is responsible for user acceptance testing and notifying Infor of any issues that require attention.
  - Upon completion of the PROD upgrade, the Licensee will be live in the Production environment of EAM and the upgrade will be deemed complete.
- Issue Resolution Time – **42 hours (to be used only if needed)**
  - Infor recommends having contingency hours available for remediation should any issues arise during the upgrade. This could be to address data migration questions or any unplanned KPIs/Inbox items that the Licensee has built. The hours, like the rest of the project, are billed on a time and materials basis so will not be used if they aren't required. If any remediation or issue resolution will take more than the hours provided, a Change Order will be required to add consulting hours to this existing project.
  - Additional hours after all upgrade and issue resolution activities are completed can be used for miscellaneous training, data, and configuration services (provided the tasks can be completed within the available hours).
- Project Management – **24 hours**
  - A dedicated and experienced Infor Project Manager will oversee the entire scope to ensure successful delivery of all tasks and to serve as the main point of contact with the Licensee team throughout the entire project.
- Licensee Responsibilities during the upgrade

- Licensee is responsible for hardware preparedness, resource availability, system testing, and quality assurance after the evaluation run, notifying Infor of any issues or errors, and user acceptance testing after the production run.

Project Deliverables

Time-Based delivery for this project includes:

Tasks	Resource	Duration (Hours)
Project Kick-Off and Hardware Readiness Call	Technical Consultant	4
v10.1.2 EAM Upgrade Evaluation Run	Technical Consultant	40
v10.1.2 EAM Upgrade Production Run	Technical Consultant	40
Support/Remediation for Flex/KPI/Inbox/Grids	Technical Consultant	42
Project Management	Project Management	24
Project Totals		**150**

The Infor Project Manager will also provide electronic copies of the User Guide and System Administrator Guides for EAM 10.

Project Assumptions

1. The costs and durations contained in this work order are estimates based on preliminary discussions with Licensee personnel.
2. This is a time and materials estimate and does not include travel and living expenses nor travel time. The task durations contained in this document are Infor's best estimate based on our experience with similar projects. If opportunities arise for Infor to accelerate the implementation because certain tasks do not take as long as originally estimated, then we will move ahead with the subsequent tasks as we are able and the project will be delivered in less time and at less cost than was originally estimated. Should circumstances arise that result in the project tasks taking longer than anticipated or where significant changes in scope materially affect the delivery or cost of the implementation then the project change control process will be initiated.
3. Travel and living expenses and travel time for Infor personnel are not included in this estimate. All travel and living expenses will be billed as actual, and travel time will be billed at $90 per hour.
4. Our consulting approach is a collaborative one. It will be necessary that Licensee functional and technical personnel be assigned and available to successfully achieve the goals of the tasks associated with this project.
5. Licensee Information Technology Resources will be available to assist with the implementation for the duration of the project.
6. Licensee will have the required hardware/software configured to upgrade specifications prior to the engagement of the technical resource.
7. Licensee will responsible for testing the data and workflows in the TEST environment.

Project Exclusions

Tasks not included in this project are:

1. Customizations or interfaces of any kind
2. Training on EAM or new features
3. Any tasks not explicitly listed in the scope/deliverables above.

Infor Responsibilities

1. Infor will provide qualified consulting resources in support of the scope listed in this project.
2. The appointed Infor Project Manager will confirm the project scope and guidelines and will clearly define the partnership between Infor and the Licensee.

Licensee Responsibilities

1. The Licensee core project team will be comprised of personnel from all functions who will provide input regarding system and to-be system processes.
2. The Licensee will have the proper hardware and infrastructure in place prior to the consultant arriving onsite. A failure of on-site task readiness on the part of the Licensee that impacts the completion of Infor activities could cause delays in the overall project duration.

3. A dedicated Licensee Project Manager will be assigned to the project to work collaboratively with the Infor team.

Services Fee Estimates			
Resource Role	Estimated Hours	Hourly Rate (US$)	Estimated Fee (US$)
Technical Consulting	126 hours	$200/hour	$25,200.00
Project Management	24 hours	$200/hour	$4,800.00
Total*	**150 hours**		**$30,000.00**
		CURRENCY:	**US DOLLARS**

***All amounts are in US Dollars unless otherwise specified**

Estimated time and costs listed in this Work Order represent an estimate only. Actual project time and cost may vary from the estimates provided. Where a substantial variation from this Work Order is foreseen, both parties must agree in writing to the additional work and amend this Work Order accordingly. All services are provided on a time and materials basis and are billed monthly. Billing and payment are not dependent or conditioned on delivery of deliverables contemplated herein or any other deliverables. Travel and living expenses are not included in the rates or estimated fees stated herein. Such travel and living expenses are in addition to such fees. Travel time to and from Licensee's site will be billed at $90 per hour. Overtime rates of 150% of the quoted rate apply for after hours and weekend work. "After hours work" is defined as services performed between 8:00 p.m. and 6:00 a.m. "Weekend work" is defined as services performed between 8:00 p.m. Friday and 6:00 a.m. Monday. Holiday rates of 200% of the quoted rate apply for all holiday work.

LOCATIONS: Services may be provided at the facilities of Infor or its Contractors, or at the Licensee sites listed below. A minimum of ½ day (4 hours) will be charged for all work at the Licensee's facilities. Remote services provided via phone, facsimile or remote access to Licensee's site will be charged at the standard hourly rate.

PAYMENT: Infor will invoice Licensee for all services and applicable charges on a monthly basis, as Infor renders the services or Licensee incurs the charges, as applicable. Licensee will pay each Infor invoice within fifteen (15) days of the date of invoice.

THE PARTIES have executed this Work Order through the signatures of their respective authorized representatives.

Infor (US), Inc.

Signature: _____

Printed Name: _____

Title: _____

Address: _____

Address: _____

Signature Date: _____

Invoices MUST be mailed to:

Company Name: _____

Contact Name: _____

Address: _____

Address: _____

Phone: _____

Email Address: _____

LICENSEE: City of Avondale

Signature: _____

Printed Name: _____

Title: _____

Address: _____

Address: _____

Signature Date: _____

Delivery Address:
If different from above

Company Name: _____

Contact Name: _____

Address: _____

Address: _____

Phone: _____

Email Address: _____

Licensee Site Addresses:

_____ _____ _____

_____ _____ _____

SERVICES ENGAGEMENT SET UP – INTERNAL USE ONLY
Engagement Manager:
CLARITY USERS

Time Approver:	**Alternate Approver:**
Item Class:	**Product:**
CHANGEPOINT USERS	
Expense & Alternate Approver:	
Customer Acct #:	**RHQ/Business Unit:**
Customer Type:	**Billing Office:**
Region/Vertical:	**Location State (Work Performed):**
Item Class:	**Product:**

CITY COUNCIL REPORT

SUBJECT:
Purchase Agreement - Real Property Located at 305 E. Hill Drive

MEETING DATE:
January 6, 2014

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting City Council approval of a purchase agreement for real property located at 305 E. Hill Drive (APN 500-17-081) for the amount of $52,000 from Sandra Lee Claire Hill. The purchase of this property will allow for the future construction of additional homes as part of a second phase of the Legacy Avondale redevelopment project.

BACKGROUND:

On June 17, 2013, the City Council adopted Ordinance 1519-613 authorizing the acquisition of 305 E. Hill Drive (APN 500-17-081) for the future construction of an estimated six additional houses and completion of the block. In December, 2012 under the Neighborhood Stablization 3 Program, the City began construction on new homes to be sold to qualified low- to moderate-income buyers. Six homes are planned as part of the first phase of Legacy Avondale. To date, four of those homes have been constructed with two additional homes to be constructed with the sale proceeds. The acquisition of 305 E. Hill Drive is the first of two acquisitions needed to complete the future second phase of Legacy Avondale on the 300 block of Hill Drive. Approximately six additional homes are planned for a total of 12 homes upon completion of the second phase.

DISCUSSION:

The property at 305 E. Hill Drive is currently underutilized with an existing small, vacant home. The home is boarded up and has been vacant for at least seven years. The location has been subject to vandalism and overgrown vegetation. Acquiring the property will enable the City to build additional energy efficient homes for owner occupants which will continue efforts to revitalize Historic Avondale and improve the housing stock for Avondale residents.

BUDGETARY IMPACT:

The purchase price for the property is $52,000. The City will also pay closing costs and fees of approximately $1,400 associated with the purchase. Funds were allocated and are available in the Fiscal Year 2013-12 budget (Account Number 209-7599-00-6187).

RECOMMENDATION:

Staff recommends that the City Council approval of the purchase agreement for acquisition of 305 E. Hill Drive.

ATTACHMENTS:

Click to download

- [Purchase and Sale Agreement]

PURCHASE AND SALE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SANDRA LEE (CLAIRE) HILL

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made as of _____, 201__ (the "Effective Date"), between **Sandra Lee (Claire) Hill**, an unmarried woman ("Seller"), and the **CITY OF AVONDALE**, an Arizona municipal corporation (the "Buyer" or the "City").

In consideration of the covenants, terms, conditions and agreements hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Purchase and Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, on the terms and conditions contained herein, certain rights to real property located in Maricopa County, Arizona, consisting of approximately 14,560 square feet of real property as legally described in Exhibit A, to be attached hereto by Escrow Agent when known and incorporated herein by reference together with all improvements, water rights, air rights, mineral rights, privileges and appurtenances thereto, including the right to any easements or rights-of-way adjacent to the real property and abandoned after the Escrow Opening Date (collectively, the "Acquisition Property").

2. Purchase Price. The total price to be paid for the Acquisition Property (the "Purchase Price") is $52,000.00. Buyer will pay $1,000.00 (the "Deposit") within five days after the Effective Date to an interest bearing escrow account with Escrow Agent, with interest accruing to Buyer. Such interest shall be included in any refund of the Deposit hereunder. The balance of the Purchase Price after application of any deposits made pursuant to this Agreement will be paid through the Escrow upon Closing (both as hereinafter defined) by certified check or Federal wire transfer. It is Seller's and Buyer's understanding that at Closing, Seller will receive a total distribution of $52,000.00 from the Escrow Agent.

3. Open and Close of Escrow.

a. Escrow Agent and Instructions. Promptly after execution of this Agreement by the parties, an escrow (the "Escrow") shall be opened with Stewart Title & Trust of Phoenix, 2930 East Camelback Road, Suite 215, Phoenix, Arizona 85016, Attn: Denise Brown ("Escrow Agent") to facilitate the consummation of the sale of the Acquisition Property pursuant to this Agreement. This Agreement constitutes escrow instructions to Escrow Agent; however, if required by Escrow Agent, Buyer and the Seller shall execute and deliver to the Escrow Agent printed form escrow instructions ("Escrow Instructions") consistent with this Agreement. In the event of any conflict between the provisions of the printed form Escrow Instructions and this Agreement or any deed, instrument or document in connection with the transactions contemplated herein, the provisions of this Agreement or such deed, instrument or document shall control. No provision of the Escrow Instructions shall excuse any non-performance by either party. The assignment by Escrow Agent of an escrow number to this transaction and the opening of the Escrow by Escrow Agent shall constitute Escrow Agent's acceptance of the instructions to, and other obligations of, Escrow Agent as set forth in this Agreement and the Escrow Instructions.

b. Escrow Opening Date. Escrow Agent shall notify the parties in writing as to the date on which it received fully executed copies of this Agreement, which date is called the "Escrow Opening Date."

c. Closing. The sale of the Acquisition Property for the consideration set forth in this Agreement and consummation of the transactions contemplated by this Agreement (the "Closing") shall occur within 10 days after the end of the Feasibility Period at the office of Escrow Agent or at such other time and location as the parties may agree, which date shall be referred to as the "Closing Date"; provided, however, that the Closing Date shall be no earlier than January 6, 2014. The Closing Date shall be deemed to be the date on which the parties shall have performed all actions necessary for the closing of the transaction, without regard to the date on which Escrow Agent actually records the deed or other closing documents.

d. IRC Reports. Escrow Agent, as the party responsible for closing the transactions contemplated hereby within the meaning of Section 6045(e)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code"), shall file all necessary information reports, returns and statements (collectively the "Reports") regarding the transactions as may be required by the Code, including, but not limited to, the reports required pursuant to Section 6045 of the Code. Escrow Agent further agrees to indemnify and hold Buyer, Seller and their respective attorneys harmless for, from and against any and all claims, costs, liabilities, penalties, or expenses resulting from Escrow Agent's failure to file the Reports that Escrow Agent is hereby required to file.

e. Prorations and Escrow Fees. Escrow fees shall be paid by Buyer. Real property, personal property and ad valorem taxes and other state or local taxes and charges affecting the Acquisition Property shall be prorated on the basis of the current year's rate and valuation, provided, that if the rate of, or valuation for, any such taxes, charges or assessments has not been fixed before the Closing Date, then the adjustment thereof at the Closing shall be upon the basis of the rate for the preceding year applied to the latest assessed valuation. Taxes for all prior years shall be paid by Seller. Except as otherwise provided in this Agreement, all other closing costs shall be paid by Buyer. Seller shall not, without the prior written consent of Buyer, consent to the imposition of any assessment against the Acquisition Property if such assessment would be required to be paid, in whole or in part, by Buyer. Seller shall give Buyer timely written notice of any proposed governmental action, which is not an action of Buyer, of which the Seller becomes actually aware.

4. Survey. Buyer may, at its sole cost and expense, obtain a survey of the Acquisition Property (the "Survey") suitable to Buyer and Escrow Agent, containing the certification of the surveyor of the number of net square feet contained in the Acquisition Property, exclusive of any land lying within roadways, streets, highways, alleys, canals, wetlands, flood plains or rights of way or areas that are, by dedication or easement or use over time, open to public use. The Survey will show each Schedule B exception contained in the Title Report (defined below) and its effect on the Acquisition Property.

5. Condition of Title.

a. Title Report. Promptly after opening of Escrow, Escrow Agent shall deliver to Buyer and to Seller a preliminary title report or commitment (including matters revealed by an inspection of the Acquisition Property) dated no earlier than the Escrow Opening Date leading to the issuance of an ALTA extended owner's policy of title insurance in the amount of the Purchase Price insuring Buyer's interest in the Acquisition Property, together with readable copies of all instruments of record referred to therein (the "Title Report").

b. Title Review Period. Buyer shall have until 30 days after receipt of the Title Report (the "Title Review Period") within which to object in writing to Seller and Escrow Agent to the legal description or any matters affecting title shown on the Title Report, it being agreed that the Purchase Price is based upon free and clear title and only such other exceptions thereto as may be approved by Buyer, in its sole and absolute discretion. Buyer's failure to timely object to any of the matters affecting title shown on the Title Report within the Title Review Period will constitute Buyer's acceptance of title subject to those matters.

c. Title Objections. If Buyer objects to any matters affecting title shown on the Title Report, Seller shall have until the Closing Date to cure any matters objected to by Buyer, but shall have no obligation to do so. If Seller does not cure those matters objected to by Buyer by the Closing Date, Buyer may, in its sole discretion, elect to (1) waive the matters objected to and close Escrow subject thereto or (2) cancel this Agreement by notice to Seller and Escrow Agent, whereupon the Escrow and this Agreement shall automatically terminate and neither party shall thereafter have any further obligations or liability to the other under this Agreement except as herein expressly provided for otherwise. If this Agreement and Escrow are terminated because Seller has failed to cure the matters objected to by Buyer or has elected not to attempt to cure such objected matters, then Escrow Agent shall without further instructions from either party return the Deposit to Buyer and any interest earned thereon.

d. Amended Title Report. Buyer shall have until five business days after receipt of an amended Title Report disclosing new matters affecting title to the Acquisition Property (and the Closing Date shall automatically be extended for such five business-day period, if appropriate) within which to object in writing to Seller and Escrow Agent to any matters affecting title set forth therein; whereupon Buyer shall have the same rights hereunder as described with respect to the objections to the first Title Report described in subsection 5(c) above. If Seller does not cure those matters objected to by Buyer within two business days after notice of Buyer's objection (and, if necessary, the Closing Date shall be appropriately extended until the expiration of the five business day period hereinabove provided and this two business day period, then Buyer may, in its sole and absolute discretion, elect either of the remedies set forth in subsection 5(c) above; provided, however, that, notwithstanding anything in this Agreement to the contrary, Buyer's rights and remedies shall not be limited with respect to any breach of Seller's covenant set forth in the following sentence. Seller covenants that between the Escrow Opening Date and the Closing Date it will not intentionally cause any material matter to arise or be imposed upon the Acquisition Property affecting title thereto as to which Seller does not cure or remove before Closing.

6. Title Insurance. Buyer's obligation to close Escrow is conditioned upon the commitment of Escrow Agent, or its affiliated title insurer, to issue to Buyer, at or promptly following the Closing, an ALTA extended coverage owner's policy of title insurance insuring title to the Acquisition Property in Buyer in the amount of the Purchase Price, the policy to be subject only to the usual printed exceptions, conditions and stipulations in the form of policy and matters affecting title shown on the Title Report not objected to by Buyer in accordance with Section 5 hereof. Buyer shall pay all costs related to an owner's policy. Seller and Buyer agree to comply with all reasonable requirements imposed by the title insurer as a condition to issuance of the policy (excluding matters affecting title which, by notice given to Escrow Agent and the other party within ten days after delivery of the Title Report, either Buyer or Seller reasonably determines should more properly be shown in the exceptions to title portion of the Title Report).

7. Conveyancing and Closing Documents.

a. By Seller. On the Closing Date, Seller shall deliver to Buyer:

(1) A special warranty deed, in the form attached hereto as Exhibit B (the "Special Warranty Deed"), conveying to Buyer title to the Acquisition Property, together with an executed affidavit of value (the "Affidavit of Value"), if applicable.

(2) An affidavit affirming under penalty of perjury that Seller is not a "foreign person" as such term is defined in Section 1445(f)(3) of the Code. In the event Seller does not furnish such affidavit, Buyer may withhold (or direct Escrow Agent to withhold) from the funds due to Seller at the Closing, an amount equal to the amount required to be so withheld pursuant to Section 1445(a) of the Code, and such withheld funds shall be deposited with the Internal Revenue Service as required by Section 1445(a) and the regulations promulgated thereunder. The amount withheld, if any, shall nevertheless be deemed to be part of the Purchase Price paid to Seller.

(3) If applicable, the original, if available, or a photocopy of the Certificate of Grandfathered Groundwater Rights relating to the Acquisition Property and any instruments reasonably required to transfer any water rights relating to the Acquisition Property.

b. By Escrow Agent. On the Closing Date, Escrow Agent shall:

(1) Record or file, as appropriate, the closing instruments hereunder in the following order: (A) the Special Warranty Deed and (B) the Affidavit of Value, if applicable.

(2) Deliver the title insurance policy, as set forth in Section 6 of this Agreement, to the Buyer.

(3) Provide each party with a complete set of closing documents as they become available to Escrow Holder.

8. General Tests. Buyer, its agents and designees, shall have the right to enter upon the Acquisition Property at all times prior to the Closing Date for the purposes of surveying and inspecting the Acquisition Property and making and obtaining drainage, environmental, soil and engineering tests, and performing other tests, studies or inspections desired by Buyer (the "Inspections"). To the extent permitted by law, Buyer agrees to indemnify, defend and hold harmless Seller for, from and against all claims, liabilities and damages, including attorneys' fees, for personal injury, physical damage to property or mechanics' or materialmen's liens which may be asserted against Seller as a result of Buyer's entry onto the Acquisition Property and inspection or testing thereof. Buyer shall, after its entry and testing, restore the Acquisition Property to substantially the same condition that existed prior to such entry and testing. If any Inspections disclose matters unsatisfactory to Buyer, in Buyer’s sole and absolute discretion, Buyer may cancel this Agreement.

9. No Alterations to Acquisition Property. Seller shall make no modifications or alterations to the Acquisition Property between the Escrow Opening Date and the Closing Date, without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. As of the Closing Date, there will be no outstanding contracts made by Seller for any improvements to the Acquisition Property which have not been fully paid, and

Seller shall cause to be discharged or bonded in accordance with law any mechanics' or materialmen's liens arising from any labor or material furnished prior to the Closing Date.

10. Representations of Seller. Seller represents and warrants to, and covenants with Buyer that:

a. Seller's Ownership. Seller owns title to the Acquisition Property. Seller has full authority to sell the Acquisition Property pursuant to the terms of this Agreement. The Acquisition Property is not subject to any unrecorded mortgages, liens, defects, adverse claims, encroachments, financing statements or encumbrances.

b. Claims. There are no pending or threatened claims or litigation affecting the Acquisition Property. If Seller becomes aware of any of the foregoing after the Escrow Opening Date (whether arising before or after the Escrow Opening Date), but prior to the Closing Date, Seller shall give prompt, written notice thereof to Buyer prior to the Closing Date.

c. Violations of Law; Defaults; Litigation; Unrecorded Arrangements. There is no violation of any laws, ordinances, rules or regulations with respect to the Acquisition Property, no default exists under any covenant, condition, restriction or easement applicable to the Acquisition Property, Seller has not received written notice from any governmental or other agency of any violation of any laws or ordinances with respect to the Acquisition Property, no litigation is pending, threatened or likely with respect to the Acquisition Property, Seller's interest therein, or that would inhibit Buyer from obtaining clear title to the Acquisition Property; and except as disclosed to Buyer in writing, there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting the Acquisition Property in any way. If Seller becomes aware of any of the foregoing after the Escrow Opening Date (whether arising before or after the Escrow Opening Date), but prior to the Closing Date, Seller shall give prompt notice thereof to Buyer prior to the Closing Date.

d. No Special Assessment. Seller has received no written notice that there any special assessment actions being contemplated by any governmental authority.

e. Hazardous Substance. Seller represents and warrants that (i) no portion of the Acquisition Property is being used or has been used at any previous time for the treatment, storage, disposal, or processing of Hazardous Materials, as such term is defined below and (ii) there are no ongoing requirements or orders of any department of environmental resources or similar government agency for environmental cleanup with respect to the Acquisition Property. "Hazardous Materials" shall mean those materials, substances, wastes, pollutants or contaminants which are deemed to be hazardous, toxic or radioactive and shall include but not be limited to those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," or other similar designations in the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. § 6901 *et seq.*, the Hazardous Materials Transportation Act 49 U.S.C. § 1801 *et seq.*, and any other federal, state or local governmental statutes, laws, codes, ordinances, rules, regulations and precautions, or by common law decision, including, without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents; (ii) petroleum products or byproducts, or petroleum, including crude oil or any fraction thereof, or natural gas, natural gas liquids, liquefied natural gas, synthetic gas or mixtures of synthetic gas and natural gas; (iii) asbestos; (iv) polychlorinated biphenyls; and (v) pesticides or herbicides.

f. Underground Storage Tanks. The Acquisition Property does not contain and has never contained any underground storage tanks containing petroleum products or

wastes or other hazardous substances regulated by 40 C.F.R. § 280 and/or other applicable, federal, state or local laws, rules and regulations and requirements.

g. No Prior Soil Remediation. The Acquisition Property has never been subject to soil remediation.

h. Wetlands. Seller has received no written notice that the Acquisition Property contains any areas which could be characterized as disturbed, undisturbed or man made wetlands pursuant to federal, state or local laws, regulations, rules or procedural manuals or as "waters of the United States" pursuant to the Clean Water Act, as amended, or rules or regulations pursuant thereto, whether such characterization reflects current conditions or historic conditions which have been altered without the necessary permits or approvals.

Except to the extent Seller gives Buyer notice as hereinbelow provided, Seller represents and warrants to, and covenants with, Buyer that the foregoing representations and warranties will be true and correct as of the Closing Date. The foregoing representations and warranties shall survive the Closing and any investigation made by or on behalf of Buyer. Seller agrees to take no voluntary and intentional actions or omissions to act that would cause any of its representations, warranties or covenants in this Agreement to become untrue. If, after the Escrow Opening Date, Seller becomes aware that any of its representations, warranties or covenants are, or have become, untrue (whether occurring before or after the Escrow Opening Date), with or without the voluntary and intentional act or omission to act of Seller, then Seller shall immediately give written notice of such fact to Buyer. Within ten days after receipt of any such notice from Seller (and, if necessary, the Closing shall be appropriately extended until the expiration of the ten-day period at Buyer's election), Buyer may, in its sole and absolute discretion and without obligation to do so, cancel this Agreement, in which event this Agreement and the Escrow shall automatically terminate and neither party shall thereafter have any further obligations or liability under this Agreement except as herein expressly provided for otherwise.

11. Conditions to Buyer's Obligation to Close. The Buyer's obligation to purchase the Acquisition Property from Seller is conditioned upon and subject to the satisfaction (unless waived in writing by Buyer in Buyer's sole and absolute discretion) of each of the following conditions on or before the Closing Date:

a. Warranties True. Seller's representations and warranties in this Agreement shall be true and correct in all respects on and as of the Escrow Opening Date and on and as of the Closing Date as if made on and as of the Closing Date.

b. Conditions Met. Seller shall have performed and complied with all agreements and conditions contained herein required to be performed or complied with by them prior to or at the Closing Date.

c. Documents in Escrow. Seller shall have deposited in Escrow or delivered to Buyer the following executed documents: this Agreement, the Special Warranty Deed, the Owner’s Affidavit and Indemnity, the Escrow Employment Agreement, the Contingency Removal, 1099-S Form or Real Estate Certification, Proceeds Authorization, Non-Foreign Affidavit, Amendment to Escrow Instructions, and No Open Deed of Trust Form.

d. Title Commitment. Escrow Agent (or its title insurance affiliate, if appropriate) shall have committed to issue to Buyer at or promptly after the Closing the title insurance policy required under this Agreement.

If any of the conditions described in this Section 11 are not satisfied, Buyer, at its election, may (1) cancel this Agreement by notice to Seller and Escrow Agent, whereupon this Agreement and

the Escrow shall automatically terminate and neither party shall thereafter have any further obligations or liability to the other hereunder except as herein expressly provided for otherwise, or (2) waive Seller's compliance with the condition and close Escrow subject thereto.

12. [INTENTIONALLY OMITTED.]

13. [INTENTIONALLY OMITTED.]

14. Seller's Remedies. Except as otherwise expressly provided in this Agreement, if Buyer defaults under this Agreement, Seller's sole and exclusive right and remedy shall be to retain the Deposit as liquidated damages and terminate this Agreement. Seller hereby waives all other remedies. Neither party shall thereafter have any further obligations or liability to the other except as herein expressly provided for otherwise. The parties acknowledge that: (i) it would be impracticable to fix the actual damages suffered by Seller as a result of such default; and (ii) the amount of the liquidated damages represents a fair and reasonable compensation to Seller for such default.

15. Buyer's Remedies. If Seller defaults under this Agreement, Buyer may, at its option, as Buyer's sole and exclusive remedy, either (a) cancel this Agreement in which case the Title Company is irrevocably instructed to return the Deposit to Buyer, (b) sue Seller for specific performance or (c) waive the default and proceed to Closing.

16. Breach; Cure. Failure or unreasonable delay by the Seller or City to perform or otherwise act in accordance with any term or provision hereof shall constitute a breach of this Agreement and, if the breach is not cured within five days after written notice thereof from the other Party, shall constitute a default under this Agreement; provided, however, that if the failure is such that more than five days would reasonably be required to perform such action or comply with any term or provision hereof, then the party shall have such additional time as may be necessary to perform or comply so long as the party commences performance or compliance within said five day period and diligently proceeds to complete such performance or fulfill such obligation (the "Cure Period"); provided further, however, that no such cure period shall extend beyond the Closing Date, unless otherwise agreed to, in writing, by the parties. Any notice of a breach shall specify the nature of the alleged breach and the manner in which said breach may be satisfactorily cured, if possible. If a breach is not cured within the Cure Period, then the non-defaulting party shall have its applicable rights as detailed in Section 14 and 15 above.

17. Operation of Acquisition Property until the Closing. After the Escrow Opening Date, and prior to the Closing Date and delivery of possession of the Acquisition Property to Buyer, Seller shall keep it in its present condition and shall make no alterations to the Acquisition Property. Except as provided in this Agreement, it is expressly understood and agreed that Buyer is buying the Acquisition Property “AS IS” AND “WHERE IS” AS OF THE TIME OF CLOSING, AND WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE, AND THAT SELLER IS MAKING NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THE QUALITY, PHYSICAL CONDITIONS OR VALUE OF THE PROPERTY, THE PROPERTY’S HABITABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, THE PRESENCE OR ABSENCE OF CONDITIONS ON THE PROPERTY THAT COULD GIVE RISE TO A CLAIM FOR PERSONAL INJURY, PROPERTY OR NATURAL RESOURCE DAMAGES; THE PRESENCE OF HAZARDOUS OR TOXIC SUBSTANCES, MATERIALS OR WASTE, SUBSTANCES, CONTAMINANTS, OR POLLUTANTS ON, UNDER OR ABOUT THE PROPERTY; OR THE INCOME OR EXPENSES

FROM OR OF THE PROPERTY. This Section shall survive the Closing or earlier termination of this Agreement.

18. Eminent Domain. If, prior to the Closing Date, any of the Acquisition Property is taken by the power of condemnation or eminent domain, or in the event notice is given by any governmental authority of, or an action is commenced with respect to, the taking of any part of the Acquisition Property by the power of condemnation or eminent domain, Seller shall give immediate written notice thereof to Buyer. Buyer may, in its sole discretion and within ten days after receipt of such notice from Seller or prior to the Closing Date, whichever period is shorter, elect to terminate this Agreement by written notice of such election to Seller and Escrow Agent. In the event Buyer elects to cancel this Agreement, neither party shall thereafter have any further obligation or liability to the other except as herein expressly provided for otherwise. If Buyer does not elect to so cancel this Agreement, all condemnation awards relating to the Acquisition Property and rights thereto are hereby assigned to Buyer and shall be paid to Buyer and the Purchase Price shall not be reduced.

19. Risk of Loss. Prior to the Closing Date, the risk of loss resulting from any cause, including, without limitation, fire or other casualty, to the improvements or any property, real or personal, subject to this Agreement shall be that of Seller. If, at any time prior to the Closing, the improvements on the Acquisition Property, if any, are destroyed or materially damaged, Buyer may elect (a) to terminate this Agreement and receive a refund of the Deposit, whereupon neither party shall thereafter have any further obligation or liability to the other except as herein expressly provided for otherwise or (b) to close Escrow, in which event all insurance proceeds from Seller's insurance are hereby assigned to Buyer and shall be paid to Buyer within ten days of a demand therefore.

20. No Broker. Each party warrants and represents to the other than no real estate sales or brokerage commissions or like commissions are or will be due from the other party in connection with this transaction as a result of the act of the party so warranting. Further, to the fullest extent permitted by law, each party agrees to indemnify and hold harmless the other party for, from and against any claims by third parties made as a result of the act of the party so representing, for real estate or brokerage commission in connection with the transaction provided for herein, and all costs and expenses incurred by the indemnitee in connection therewith including, but not limited to, reasonable attorneys' fees. In any event, no commission shall be earned until the transactions contemplated by this Agreement are actually consummated.

21. [INTENTIONALLY OMITTED.]

22. General Provisions.

a. Further Instruments. Each party, promptly upon the request of the other, shall execute, acknowledge and deliver to the other any and all further instruments as may be necessary or proper to carry out the purpose and intent of this Agreement.

b. Assignment. Either party may assign or transfer its rights, duties and obligations under this Agreement only with the prior written consent of the other party, which consent may be withheld for any reason or for no reason. Any such transfer or assignment shall be subject to the terms of this Agreement.

c. Successors and Assigns. Except as otherwise provided herein, this Agreement and all the terms and provisions hereof shall be binding upon and inure to the benefit of the parties and their successors and assigns.

d. Entire Agreement. This Agreement contains the entire agreement between Seller and Buyer, and there are no other terms, conditions, promises, undertakings, statements or representations, express or implied, concerning the sale contemplated by this Agreement.

e. Modification of Agreement. No modification of this Agreement shall be effective unless in writing and signed by the parties hereto.

f. Waiver. The waiver of a breach of any term or condition of this Agreement may be made only in writing and shall not be deemed to constitute a waiver of subsequent breach of such term or condition, or a waiver of a breach or subsequent breach of any other term or condition.

g. Survival. All indemnities, warranties, representations and covenants made in this Agreement shall survive the Closing.

h. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which shall constitute one and the same agreement.

i. Terms. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person may in the context require.

j. Descriptive Headings. The descriptive headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

k. Third Party Beneficiary. None of the terms or provisions of this Agreement shall be deemed or construed to create any third party beneficiary rights to any person who is not a party hereto unless expressly otherwise provided.

l. Notice. 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 (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 below:

If to Seller:	Sandra Lee (Claire) Hill 10724 West Cheryl Drive Sun City, AZ 85351
If to the City:	City of Avondale 11465 West Civic Center Drive, Suite 200 Avondale, Arizona 85323 Attn: City Manager

With a copy to:	Gust Rosenfeld, P.L.C. One East Washington Street, Suite 1600 Phoenix, Arizona 85004-2553 Attn: Andrew J. McGuire, Esq.
If to the Escrow Agent:	Stewart Title & Trust of Phoenix 2930 East Camelback Road, Suite 215 Phoenix, Arizona 85016 Attn: Denise Brown

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, registered or certified, 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. Buyer acknowledges that Seller will be of the country and unable to respond to any demand for documents or signatures during the dates of December 16, 2013 through January 6, 2014.

m. Governing Law and Venue. This Agreement and the rights of the parties hereto shall be governed by and construed in accordance with the laws of the State of Arizona. Any action at law or judicial proceeding instituted by any party relating to this Agreement shall be instituted in the state or federal courts located in Maricopa County, Arizona.

n. Attorneys' Fees. In the event of any controversy, claim or dispute between the parties arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be entitled, in addition to such other relief as may be granted, to recover its costs and expenses, including without limitation, reasonable attorneys' fees, expert witness fees and investigators' fees, which shall be determined by the court if the matter is litigated or otherwise in a separate action brought for that purpose.

o. Time of the Essence. All dates and times for performance set forth in this Agreement are of the essence.

p. Severability. If any provision or provisions of this Agreement, or the application thereof to any person or circumstance be determined to be invalid or unenforceable to any extent by a court of competent jurisdiction, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

q. Time Periods. If the time for the performance of any obligation under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

r. Cancellation. This Agreement may be cancelled by the Buyer pursuant to ARIZ. REV. STAT. § 38-511.

23. Contingencies. Buyer shall have until 60 days after the Effective Date (the "Feasibility Period") to determine the feasibility of Buyer's planned development of the Acquisition Property. At any time prior to the end of the Feasibility Period, the Buyer may, for any reason in its sole and absolute discretion, cancel this Agreement and receive a refund of the Deposit. If Buyer does not cancel this Agreement by providing written notice to Seller and Escrow Agent prior to expiration of the Feasibility Period, the Buyer shall be deemed to have disapproved the feasibility of Buyer's planned development of the Property, in which event this Agreement shall be deemed terminated.

[SIGNATURES ON FOLLOWING PAGES]

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

"Seller"

Sandra Lee (Claire) Hill, an unmarried woman

_____

(ACKNOWLEDGMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 201__, by Sandra Lee (Claire) Hill, an unmarried woman, in her individual capacity.

_____
Notary Public in and for the State of _____

(affix notary seal here)

"Buyer"

CITY OF AVONDALE, an Arizona
Municipal corporation

By: _____
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 _____, 201__, by Charles P. McClendon, as City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

EXHIBIT A
TO
PURCHASE AND SALE AGREEMENT
BETWEEN THE CITY OF AVONDALE
AND
SANDRA LEE (CLAIRE) HILL

[Legal Description of Acquisition Property]

SEE ATTACHED.

EXHIBIT B
TO
PURCHASE AND SALE AGREEMENT
BETWEEN THE CITY OF AVONDALE
AND
SANDRA LEE (CLAIRE) HILL

[Special Warranty Deed]

When Recorded Mail To: City Clerk City of Avondale 11465 West Civic Center Drive, Suite 200 Avondale, Arizona 85323	

EXEMPT FROM AFFIDAVIT OF PROPERTY VALUE PURSUANT TO ARIZ. REV. STAT. § 11-1134(A)(3).

SPECIAL WARRANTY DEED

GRANTOR: Sandra Lee (Claire) Hill, an unmarried woman (the "Grantor")

GRANTEE: City of Avondale, an Arizona municipal corporation (the "City")

Grantor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby conveys to City all right, title and interest in the following real property situated in Maricopa County, Arizona, together with all rights and privileges appurtenant thereto:

See Exhibit A, attached hereto and incorporated herein by reference.

The Grantor hereby binds itself and its successors to warrant and defend the title as against all acts of Grantor herein and none other.

[SIGNATURES ON FOLLOWING PAGES]

"**Grantor**"

SANDRA LEE (CLAIRE) HILL, an unmarried woman

_____

(ACKNOWLEDGMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 201__, by Sandra Lee (Claire) Hill, an unmarried woman, in her individual capacity.

_____
Notary Public in and for the State of _____

(affix notary seal here)

ACCEPTED BY:

"**City**"

CITY OF AVONDALE, an Arizona
Municipal corporation

By: _____
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 _____, 201__, by Charles P. McClendon, as City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

(affix notary seal here)

EXHIBIT A
TO
SPECIAL WARRANTY DEED
BETWEEN
THE CITY OF AVONDALE
AND
SANDRA LEE (CLAIRE) HILL

[Legal Description]

SEE ATTACHED.

CITY COUNCIL REPORT

SUBJECT:
Resolution 3158-114 - Adoption of Council Goals FY 2014-15

MEETING DATE:
January 6, 2014

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution establishing Council goals for fiscal year 2014-2015.

BACKGROUND:

The Avondale City Council held its Goal Setting session on Monday, December 9, 2013 at the Avondale City Hall. The goal setting session was held as part of the budget meeting, and was attended by the Mayor and City Council members, the City Manager, staff from the City Manager's Office and Department Directors.

The purpose of the budget meeting was to review the City's current financial condition and formulate Council's operational goals for the upcoming 2014-2015 fiscal year. The Community Relations director, Pier Simeri, kicked off the meeting by providing Council with a summary of the results from the 2013 Resident Satisfaction Survey. City Manager Charles McClendon then presented a review of department accomplishments to date on the goals adopted a year ago and Finance Director Kevin Artz provided a presentation of the current financial picture and a forecast for next year. The Council then discussed its priority goals for the upcoming year.

DISCUSSION:

The primary purpose for establishing these goals was to give staff direction in preparing the budget and departmental work plans for the next fiscal year. As such, it is anticipated that the final budget presented to Council for fiscal year 2014-2015 will allocate resources necessary to accomplish these goals to the extent possible. The Mayor and City Council developed priorities under the umbrella of the following goals for the 2014-2015 fiscal year:

GOAL: COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT

- Continue to focus economic development efforts in the following areas of emphasis: medical/technology, youth & amateur sports, office/manufacturing, City Center development
- Develop a long-range plan for the Randall McDaniel Sports Center including opportunities for community use and expansion
- Develop a marketing video focusing on Avondale's "Points of Pride"

GOAL: COMMUNITY INVOLVEMENT

- Build upon the success of "City Hall Comes to You" with more events that are focused on neighborhoods or community issues or projects.
- Expand social media efforts to include videos to air on Avondale's social media outlets, as well

as the website or Avondale 11, including youth/school/community productions.
- Coordinate and promote volunteerism in the community
- Continue to promote the Citizens Academy and consider expansion if the need dictates
- Continue efforts in Board, Commission, Committee recruitment, using a variety of means such as community engagement and social media
- Complete the branding project, with the unveil and launch of the new brand in 2014

GOAL: STAFF RETENTION

- Encourage “growth-from-within” practices and prepare staff where possible
- Consider development of a separate Intergovernmental Affairs Department/Division
- Concentrate staff retention efforts within the Avondale Police Department on improving the entry range (one to five years.)
- Provide a total salary increase package in the 3 to 5 % range
- Allow Department head discretion on distribution of increases for non-represented groups

GOAL: ENVIRONMENTAL LEADERSHIP

- Consider the possible use of grey/rainwater in the city’s Sustainability Plan
- Complete the green waste pilot program, evaluate the results, and report on possible next steps

GOAL: FINANCIAL STABILITY

- Develop a long-range asset replacement plan for water and wastewater
- Develop a long-range debt reduction plan for the city

GOAL: TRANSPORTATION MANAGEMENT

- Develop a street maintenance and replacement plan
- Explore options to address neighborhood traffic issues

GOAL: QUALITY OF LIFE

- Develop plans to complete all phases of Friendship Park and Festival Fields
- Consider the development of splash pads as part of park improvements or in other locations
- Explore options for supporting special events by outside organizations and smaller city special events through grants and/or sponsorships
- Approach Phoenix International Raceway about holding a music festival on-site
- Actively engage in the 50th Anniversary celebration of Phoenix International Raceway throughout the year in 2014
- Explore possibilities with the Avondale Youth Commission to create potential “youth activity centers” within retail centers
- Explore partnerships with HOAs for use of their parks for youth sports and other activities
- Evaluate a possible holiday lights attraction for Western Avenue

GOAL: PUBLIC SAFETY

- Consider the use of on-body/on-vehicle cameras, including evaluating start up and replacement costs for such a program
- Encourage innovation within the Police Department, including brainstorming on ideas to fight crime

BUDGETARY IMPACT:

It is anticipated that the final budget presented to Council for fiscal year 2014-2015 will allocate resources necessary to accomplish the above-mentioned goals to the extend possible.

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution establishing Council goals for fiscal year 2014-2015.

ATTACHMENTS:

Click to download

- [ ] Resolution #3158-114 Council Goals 2014-2015

RESOLUTION NO. 3158-114

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ESTABLISHING PRIORITY GOALS FOR FISCAL YEAR 2014-2015.

WHEREAS, on December 9, 2013, the Council of the City of Avondale (the "City Council") held a goal setting retreat (the "Retreat") with the City of Avondale staff; and

WHEREAS, the City Council established priority goals for its fiscal year 2014-2015 budget at the Retreat.

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

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

SECTION 2. The City Council's priority goals are hereby adopted for fiscal year 2014-2015 in the form attached hereto as Exhibit A and incorporated herein by reference.

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.

PASSED AND ADOPTED by the Council of the City of Avondale, January 6, 2014.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

2093015.1

EXHIBIT A
TO
RESOLUTION NO. 3158-114

[Council Goals]

See following pages.

CITY COUNCIL GOALS FOR FISCAL YEAR 2014-2015

GOAL: COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT

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GOAL: STAFF RETENTION

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- Concentrate staff retention efforts within the Avondale Police Department on improving the entry range (one to five years).
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- Complete the green waste pilot program, evaluate the results and report on possible next steps.

GOAL: FINANCIAL STABILITY

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- Develop a long-range debt reduction plan for the city.

GOAL: TRANSPORTATION MANAGEMENT

- Develop a street maintenance and replacement plan.
- Explore options to address neighborhood traffic issues.

GOAL: QUALITY OF LIFE

- Develop plans to complete all phases of Friendship Park and Festival Fields.
- Consider the development of splash pads as part of park improvements or in other locations.
- Explore options for supporting special events by outside organizations and smaller city special events through grants and/or sponsorships.
- Approach Phoenix International Raceway about holding a music festival on-site.
- Actively engage in the 50th Anniversary celebration of Phoenix International Raceway throughout the year in 2014.
- Explore possibilities with the Avondale Youth Commission to create potential "youth activity centers" within retail centers.
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- Evaluate a possible holiday lights attraction for Western Avenue.

GOAL: PUBLIC SAFETY

- Consider the use of on-body/on-vehicle cameras, including evaluating start up and replacement costs for such a program.
- Encourage innovation within the Police Department, including brainstorming on ideas to fight crime.

CITY COUNCIL REPORT

SUBJECT:
Executive Session

MEETING DATE:
January 6, 2014

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Council may hold an executive session pursuant to (i) Ariz. Rev. Stat. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City's Attorney regarding potential litigation with respect to tax matters, and (ii) Ariz. Rev. Stat. § 38-431.03 (A)(1) for discussion regarding the City Manager's annual evaluation.

ATTACHMENTS:

Click to download

No Attachments Available