



# CITY COUNCIL AGENDA

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

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**WORK SESSION**  
**February 2, 2015**  
**6:30 PM**

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## CALL TO ORDER BY MAYOR

### 1 ROLL CALL BY THE CITY CLERK

### 2. **UPDATE ON THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II MS4 PERMIT**

City Council will receive an update on the status of the National Pollution Discharge Elimination System Phase II Municipal Separate Storm Sewer System (MS4) Permit and the implementation of the Stormwater Management Plan. For information, discussion and direction.

### 3 **ADJOURNMENT**

Respectfully submitted,

Carmen Martinez  
City Clerk

Council Members of the City of Avondale will attend either in person or by telephone conference call.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica.

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 oido, o con necesidad de impresion grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos dias habiles 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 estos aparezcan en estos videos o grabaciones de audio. Los padres pueden 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 AGENDA

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**SUBJECT:**

Update on the National Pollution Discharge Elimination System (NPDES) Phase II MS4 Permit

**MEETING DATE:**

2/2/2015

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**TO:** Mayor and Council**FROM:** Tracy Stevens, Development and Engineering Services Director, 623-333-4012**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff will update the Mayor and City Council on the status of the National Pollution Discharge Elimination System (NPDES) Phase II Municipal Separate Storm Sewer System (MS4) Permit and the implementation of the Stormwater Management Plan (SWMP).

**BACKGROUND:**

In 1987, Congress amended the Clean Water Act (CWA) to add Stormwater Pollution Prevention into the NPDES program. The Arizona Department of Environmental Quality (ADEQ) worked with the United States Environmental Protection Agency (USEPA) to develop a program to address storm water runoff in Arizona municipalities. Under this program, all municipalities which have storm drains must apply for a NPDES MS4 permit.

**DISCUSSION:**

In March 2003, Avondale received their NPDES Phase II MS4 permit. The permit is to be renewed and if necessary, updated every 5 years. As a requirement of the permit, Avondale created a Stormwater Management Plan (SWMP). Avondale's SWMP consists of six (6) Minimum Control Measures (MCMs), each of which consists of a group of Best Management Practices (BMPs). The BMPs are measurable and must be reported annually to ADEQ. The City has reported annually since 2003 and to date, has not received any concerns from ADEQ.

ADEQ has been in the process of modifying the requirements for the MS4 permits. The City's current NPDES Phase II MS4 permit was due for renewal in 2008. However, due to the proposed modifications to the Phase II MS4 permit requirements, the City's permit has been administratively continued. Staff recently submitted the City's 2013 Annual Report.

ADEQ has completed the modifications to the Phase I MS4 permits in 2013. In all cases, the new Phase I permit requirements are more stringent and entail a significant amount of additional monitoring and water quality inspection. From August through October 2014 ADEQ held stakeholder meetings with Phase II permit holders to develop the newest Phase II permit iteration. It is anticipated that the modifications to the Phase II MS4 permit will be similar to those of the Phase I MS4 permit resulting in a more stringent permit with additional unfunded mandates.

The additional requirements of the permit which will be released by next fiscal year and the comment review period will be open as soon as the draft permit is released. Due to the City

implementing a \$1 environmental fee per water meter, Avondale is better prepared to mitigate the forecasted additional requirements.

**BUDGET IMPACT:**

There may be potential budgetary impacts dependent upon the new permit due out June 2015.

**RECOMMENDATION:**

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



# CITY COUNCIL AGENDA

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

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**REGULAR MEETING  
February 2, 2015  
7:00 PM**

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

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

**2 UNSCHEDULED PUBLIC APPEARANCES**

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

**3 CONSENT AGENDA**

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

**a. APPROVAL OF MINUTES**

1. Work Session of January 12, 2015
2. Regular Meeting of January 20, 2015

**b. PROFESSIONAL SERVICES AGREEMENT - ONE STEP BEYOND, INC.**

City Council will consider a request to approve a Professional Services Agreement with One Step Beyond, Inc. to provide joint programming on the vacant retail space at the Civic Center Library for academic and retail purposes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**c. SETTLEMENT AGREEMENT - AUTO DEALER INVESTMENTS OF AMERICA, LLC RELATED TO A DEVELOPMENT AGREEMENT.**

City Council will consider a request to approve a settlement agreement with Auto Dealer Investments of America, LLC (ADIA) related to a development agreement and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**d. RESOLUTION 3239-215 - INTERGOVERNMENTAL AGREEMENT - TOLLESON UNION HIGH SCHOOL DISTRICT FOR RESOURCE OFFICER**

City Council will consider a resolution authorizing an Intergovernmental Agreement with the Tolleson Union High School District #214 to share the cost of providing a School Resource Officer during the 2014/2015 school year, for both Westview High School and La Joya High School during the school year and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

#### **4 COUNCIL APPOINTMENTS TO REGIONAL AND LOCAL BOARDS, COMMISSIONS AND COMMITTEES**

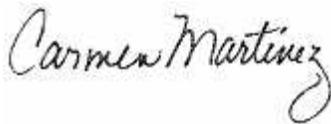
City Council will consider appointments of the mayor and council to various regional and local boards and committees resulting from recent changes to the City Council. Council will evaluate current appointments and vacancies and make any necessary assignments to ensure the city is adequately represented. The Council will take appropriate action.

#### **5 EXECUTIVE SESSION**

The Council may hold an executive session pursuant to 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 status of all pending litigation matters.

#### **6 ADJOURNMENT**

Respectfully submitted,



Carmen Martinez  
City Clerk

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## CITY COUNCIL AGENDA

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**SUBJECT:**

Professional Services Agreement - One Step Beyond, Inc.

**MEETING DATE:**

2/2/2015

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**TO:** Mayor and Council**FROM:** Christopher Reams, Parks, Recreation and Libraries Director (623) 333-2412**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is requesting that the City Council approve a Professional Services Agreement (PSA) with One Step Beyond, Inc. (One Step Beyond); to provide joint programming at the Civic Center Library for the operation of the retail venue and service space for retail and academic purposes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The City of Avondale (the City) through the Parks, Recreation, and Libraries Department (PRLD); and One Step Beyond desire to enter into a joint programming agreement at the City of Avondale Civic Center Library. The City is in need of an operator for the retail and services space located at the South entrance of the Civic Center Library. The City has tried unsuccessfully to operate the space as a concession operation using the services of for-profit contractors. After approximately four years of operating as a food service space, the most recent contractor of the Library Deli vacated the premises in December 2013. Staff recommends using the library space as an employment training center in cooperation with One Step Beyond.

One Step Beyond provides programming to train and develop individuals with developmental disabilities. The programs provide the participants with job training and life skills to enhance their independence. One Step Beyond programs teach job skills in a safe, controlled environment designed to simulate a real-life workplace. The programs incorporate all of the skills and abilities required to master and keep a job, including: excelling in simple tasks, mature workplace behavior, and effective communication with co-workers and supervisors. One Step Beyond currently operates in Peoria and Surprise.

This Civic Center library space would provide an additional training site for One Step Beyond. The participants will learn how to manage and operate a library book store. In addition, a portion of the book store proceeds will provide funding for library operations. The program would be run by One Step Beyond staff and participants with the intent of giving the participants opportunities to build business skills and engage local businesses while providing valuable education and training.

**DISCUSSION:**

Under the terms of the agreement the City will provide the facilities for the programming and One Step Beyond will develop, implement, and manage all of the program operations. All programming will be jointly agreed upon prior to the program start date. This agreement shall be effective as of January 20, 2015 for an initial period of one year. The agreement may be extended for up to three

successive one-year terms if it is in the best interest of the City. One Step Beyond will pay the City 50% of gross revenue from all sales generated from operations at the Civic Center Library.

The PRLD's current budget includes funds to remodel the library concession space. The City will remodel the space to accommodate the program, provide shelving, and provide an inventory of used books. One Step Beyond will manage the program, train all staff and participants, and monitor the operations of the book store. One Step Beyond may also include the sale of non-alcoholic beverage items such as hot and iced coffee, bottled water, bottled juice, and bottled soda and pre-packaged food items. Food items must be pre-packaged. The hours of operation will be consistent with library hours, but will adjust as necessary based on program requirements.

**BUDGET IMPACT:**

The budget for the library space remodel is included in the Parks, Recreation & Libraries Department Library Division budget line item 101-8110-00-6320 (Contractual Maintenance / Building and Grounds).

All other program-associated costs related to this agreement will be 100% cost recoverable. There will be no expenses incurred by the City. All program related expenses, costs, and supplies will be the responsibility of program fees collected by the participants, customers, sponsorships, or grant funds.

**RECOMMENDATION:**

Staff recommends that the City Council approve a Professional Services Agreement (PSA) with One Step Beyond, Inc. (One Step Beyond); to provide joint programming at the Civic Center Library for the operation of the retail venue and service space for retail and academic purposes and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

**Description**

[PSA - Once Step Beyond, Inc.](#)

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
ONE STEP BEYOND, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of February 2, 2015, between the City of Avondale, an Arizona municipal corporation (the “City”), and One Step Beyond, Inc., an Arizona non-profit corporation (the “Contractor”).

RECITALS

A. The City has vacant space available inside the Civic Center Library located at 11350 West Civic Center Drive (the “Library Space”) and desires to use the space to facilitate a job training program (the “Program”).

B. Contractor is in the business of providing comprehensive programs to people with developmental disabilities to realize their dreams of optimal independence, meaningful employment, significant social relationships and full participation in the community, and is the only entity in the vicinity with a job training program and the ability to transport Program participants to the Library Space.

C. The City has determined that competitive solicitation is not in the City’s best interest. Pursuant to Section 13.2 of the Avondale Procurement Policy, the City desires to enter into an Agreement with the Contractor for the City to provide space to allow the Contractor to administer the Program by operating a used bookstore in the Library Space (the “Services”), as more particularly set forth in Section 2 below.

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until February 1, 2016 (the “Initial Term”), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to three 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, the Contractor 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. The Contractor’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 the Contractor, 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. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit A and incorporated herein by reference.

3. Compensation. During the Initial Term, the Contractor shall be permitted to utilize the Library Space to carry out the Program at no cost. Beginning with the first Renewal Term and continuing for the remainder of the Term of this Agreement, Contractor shall pay the City five percent of its gross sales derived from the Services.

4. Payments. The Contractor shall pay any payments required pursuant to Section 3 above to the City monthly in accordance with Section 4.1 of the Scope of Work, attached hereto as Exhibit A.

5. 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.

6. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor 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.

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

8. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, 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 Contractor.

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

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

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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. Contractor'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. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. 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 Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor 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 Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Contractor'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 a 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) Contractor’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 Contractor under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. 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.

## 11.2 Required Insurance Coverage.

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

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

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

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

## 12. Termination; Cancellation.

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

by the City. Upon termination for convenience, City shall be paid for the undisputed portion of its fee due as of the termination date.

12.2 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 Contractor to the City for the undisputed portion of its fee due as of the termination date.

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

12.4 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 Contractor to any other party of the Agreement with respect to the subject matter of the Agreement.

12.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor 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 the Contractor an amount equal to 150% of the gratuity.

### 13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee, trainee or agent of one party shall not be deemed or construed to be the employee, trainee or agent of the other for any purpose whatsoever. The Contractor 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. Contractor, its employees, trainees 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 Contractor, its employees, trainees or subcontractors. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

13.2 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 Maricopa County, Arizona.

13.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, 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.

13.4 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 the Contractor.

13.5 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.

13.6 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.

13.7 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.

13.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the

City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

13.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor 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 Contractor.

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

13.11 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.

13.12 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.

13.13 Offset.

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

13.14 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: David W. Fitzhugh, 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 Contractor: One Step Beyond, Inc.  
9299 West Olive Avenue, Suite 311  
Peoria, Arizona 85345  
Attn: Madison Rogers

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.

13.15 Confidentiality of Records. The Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 13.17 below, Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the

Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

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

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

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

[SIGNATURES ON FOLLOWING PAGES]

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

\_\_\_\_\_  
David W. Fitzhugh, City Manager

ATTEST:

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

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

On \_\_\_\_\_, 2015, before me personally appeared David W. Fitzhugh, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

\_\_\_\_\_  
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]



EXHIBIT A  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
ONE STEP BEYOND, INC.

[Scope of Work]

See following pages.

## SCOPE OF WORK

1. Introduction.

Contractor will operate a used bookstore (the “Store”), comprised of the approximately 600 square foot area inside the Library Space, providing for the sale of used books and other merchandise stated below, in order to provide a job training program for people with disabilities (“Trainees”).

2. Operation of the Store.

2.1 The City will provide to the Contractor, used books at no charge to be sold in the Store. The books will remain the property of the City until they are sold and must not be removed from the Store. The City Representative will determine the price to charge for the books, with input from the Contractor.

2.2 The Contractor may also sell non-alcoholic beverage items (e.g., hot and iced coffee, bottled water, juice and soda), food items (e.g., bagels, pastries, muffins, fresh fruit, sandwiches and salads) and additional merchandise upon written authorization from the Director of Parks, Recreation and Libraries (collectively, the “Merchandise”).

A. All food items must be pre-packaged.

B. The sale of alcoholic beverages and tobacco is prohibited.

C. The Contractor shall follow all current municipal regulatory and code requirements of the Maricopa County Environmental Health Code, Chapter VII. This information is available through the Maricopa County Department of Environmental Services.

2.3 The Store shall be open the same days and hours as the Library, excluding City holidays:

|                    |                         |
|--------------------|-------------------------|
| Monday – Thursday: | 10:00 a.m. to 8:00 p.m. |
| Friday:            | 1:00 p.m. to 5:00 p.m.  |
| Saturday:          | 11:00 a.m. to 5:00 p.m. |

If Contractor does not open and operate the Store for five consecutive scheduled work days, it will be in default of this Agreement. The City Representative shall have the authority to change the hours of operation, as necessary.

2.4 The Contractor will provide a book inventory and a detailed accounting to the City Representative by the fifth working day of each month. The accounting shall include gross sales, expenses and any profit generated for the Program.

- 2.5 The Contractor will provide to the City Representative by the fifth working day following each quarter, a job training report containing the following information:
- A. Trainees entered into the Program, including name, age and city of residence.
  - B. Trainees who have completed the Program and received certification, including name, age and city of residence.
  - C. Trainees who have secured employment after completion of the Program, including name, age and city of residence.
- 2.6 Contractor shall furnish all equipment and supplies necessary for the proper operation of the Store.
- 2.7 Contractor shall supply all trash receptacle liners and dispose of all debris generated by the Services at the close of each business day. The Store must be cleaned and sanitized daily.
- 2.8 The Contractor is solely responsible for the security of all cash and Merchandise. There shall be no cash left in the Store after closing. Merchandise left in the Store must be secured by the Contractor.
- 2.9 Contractor's operation of the Store shall not interfere with visitors to the Library or City property. The following distractions and annoyances that disturb the peace and comfort of other patrons or employees are prohibited, and any occurrence may result in a termination of the Agreement:
- A. Any loud, disturbing and unnecessary noises.
  - B. Sounding or blowing any horn or signaling device.
  - C. Playing any radio, amplified music system, or musical instrument.
  - D. Yelling, shouting, hooting, whistling, or singing.
  - E. Any noise to attract attention for advertising or other purposes (e.g., a drum, loudspeaker, or other device).
- 2.10 Any damage to City property as a result of the Services provided by Contractor shall be repaired or replaced to the City's satisfaction at Contractor's sole expense. Any damage caused by the Contractor that has to be repaired or replaced by the City will be charged to the Contractor.

3. Personnel and Trainees.

- 3.1 Contractor shall be solely responsible for providing reliable, properly trained personnel and Trainees to operate the Store.
- 3.2 Personnel and Trainees must be able to speak, understand, read and write the English language.
- 3.3 Personnel and Trainees must not have been convicted of a felony or any crime involving moral turpitude.
- 3.4 Personnel and Trainees must be neat and clean in appearance and wear uniforms or other identification that clearly identifies them as employees of the Contractor.
- 3.5 Personnel and Trainees must possess the necessary public relations skills to deal with employees and customers in a professional, courteous, businesslike manner.
- 3.6 Contractor, its personnel and all Trainees must understand and fully comply with all laws, ordinances, rules and regulations of the United States, State of Arizona, County of Maricopa and the City of Avondale.
- 3.7 Contractor shall provide a manager who shall be Contractor's contact person and be responsible for the performance of the Services for the duration of the Agreement (the "Manager"). The Manager shall establish a routine for communications with the City Representative to provide a timely response to any concerns or problems that may arise, receive instructions regarding special events and to discuss pertinent items regarding the Agreement and Contractor's performance.
- 3.8 Contractor is solely responsible for supervising the Trainees at all times.
- 3.9 Contractor will provide transportation for the Trainees to and from the Store, if necessary.
- 3.10 Personnel and Trainees will agree to reasonably cooperate with any background check deemed necessary by the City, prior to working in the Store.

4. Income and Expenses.

- 4.1 Beginning with the first Renewal Term, Contractor will pay to the City five percent of its gross sales within 10 days following submittal of the accounting and inventory referenced in Section 2.4 above.
- 4.2 Contractor will not pay the City any additional rent for the Store for as long as all requirements of this Agreement are met and Contractor's Services provide acceptable measurable results, as determined by the City in its sole discretion.

- 4.3 Contractor is solely responsible for all expenses incurred.
- 4.4 Pursuant to Section 13.1 of this Agreement, Contractor is solely responsible for all wages and benefits paid to its personnel and Trainees.



## CITY COUNCIL AGENDA

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**SUBJECT:**

Settlement Agreement - Auto Dealer Investments of America, LLC related to a development agreement.

**MEETING DATE:**

2/2/2015

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**TO:** Mayor and Council**FROM:** Kevin Artz, Assistant City Manager**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

To approve a settlement agreement with Auto Dealer Investments of America, LLC (ADIA), related to an economic development agreement.

**BACKGROUND:**

In June 2003, the City and ADIA entered into an economic development agreement relating to the development of a KIA automobile dealership at the Avondale Automall. The agreement provided for a rebate of a portion of the sales taxes to ADIA for a period of ten years from the opening of the KIA dealership.

In January 2004, the City and ADIA entered into an amended and restated economic development agreement relating to the development of a Mitsubishi Dealership in addition to the KIA dealership. The agreement provided for a rebate of a portion of the sales tax for a period of ten years commencing upon the opening of the dealerships (which occurred in July 2004).

In August 2010, the City and ADIA entered into the first amendment to the amended and restated agreement of 2004. The first amendment related to substitution of a Mazda dealership to replace the Mitsubishi dealership (which vacated the auto mall in August 2008), in an effort to meet the requirement to have two new car dealerships.

The original economic development agreement (and subsequent restatement and amendment) required ADIA to waive its right to keep the sales tax records confidential. The agreement also provided that ADIA could assign the agreement to another party upon prior written approval of the City. A primary reason for the City's approval was to ensure that a new waiver of confidentiality was obtained from the assignee.

**DISCUSSION:**

Arizona State Law prescribes that sales tax information provided to the City from the taxpayer is to be kept confidential. When the City enters into an economic development agreement that involves a rebates of taxes paid, the City requires the taxpayer to waive its right to keep sales tax information confidential. If the rebates are to be paid to an entity other than the taxpayer, the

taxpayer's consent is needed in order to reveal the tax calculation information to the other entity. In either event, once the rebate check is issued, it becomes a public record from which virtually anyone could calculate the amount of sales taxes paid by an entity. Accordingly, waivers are needed from any entity whose sales will be used to calculate the rebate.

In the summer of 2013, the KIA dealership was sold to a separate entity, but a waiver of confidentiality was not obtained. Because the sale occurred without prior approval from the City, the City was not able to ensure a confidentiality waiver was obtained. In February of 2014 (when the rebate payments were due to be paid) the City informed ADIA that the City did not have a waiver of confidentiality from Rodeo KIA, and therefore could not rebate the sales tax from the time Rodeo KIA began reporting the sales taxes (August 2013). The rebates for KIA prior to August 2013, and the rebates for the entire year for the Mazda dealership were paid to ADIA in February of 2014, as per the agreement. The rebate amounts for Rodeo KIA were calculated and set aside by the City until the matter could be resolved.

In August 2014, the City received a notice of claim demanding payment in the amount of \$209,000 for the KIA dealership rebate for the period from August 2013 to August 2014 (the termination date of the rebates under the agreement). In order to avoid litigation and to avoid violating State Law, the City offered to settle the matter of the outstanding Rodeo KIA rebate for \$175,000. The rebate of \$67,591.83 for the Mazda dealership is the actual amount due to ADIA in February 2015 (the City has a valid confidentiality waiver for Mazda).

The City's obligations to rebate sales tax under this development agreement terminated in August 2014, and no further rebates will be paid under this agreement.

**BUDGET IMPACT:**

The total amount rebated under the settlement agreement is \$242,591.83 and the funds have been set aside by the City's Finance Department. The payment of the rebates was planned in the City's budget and will be paid from line item 101-5300-00-6996 (incentive rebates).

**RECOMMENDATION:**

Staff recommends that Council approve the settlement agreement with Auto Dealer Investments of America, LLC (ADIA), related to the economic development agreement.

**ATTACHMENTS:**

**Description**

[Settlement Agreement](#)

## SETTLEMENT AGREEMENT, RELEASE AND COVENANT NOT TO SUE

THIS SETTLEMENT AGREEMENT, RELEASE AND COVENANT NOT TO SUE (the “Agreement”) is made and entered into February 2, 2015 (the “Effective Date”) by and between the City of Avondale, an Arizona municipal corporation (the “City”) and Auto Dealer Investments of America, LLC, an Arizona limited liability company (“ADIA”) (each a “Party” and collectively, the “Parties”).

### RECITALS

A. On June 2, 2003, the City and ADIA entered into an Economic Development Agreement relating to the development of a KIA automobile dealership generally located at the Southeast corner of 107th Avenue and Interstate 10 (the “Original Agreement”).

B. The Original Agreement was amended and restated on or about January 5, 2004 (the “Amended and Restated Agreement”) to add a Mitsubishi dealership, and further amended by the First Amendment to Amended and Restated Economic Development Agreement, dated August 9, 2010 (the “First Amendment”) to, among other things, substitute a Mazda dealership for the Mitsubishi dealership. The Amended and Restated Agreement and the First Amendment shall hereinafter be referred to as the “Amended Agreement.”

C. Pursuant to the Amended Agreement, ADIA was required to construct, open and operate both the KIA and Mitsubishi (now Mazda) auto dealerships for business, which requirements were timely completed by ADIA or its affiliates (with respect to construction and opening) and are on-going (with respect to continuous operation through December 31, 2015). ADIA subsequently sold the KIA dealership to an unaffiliated entity, which later sold it to the current owner.

D. The Amended Agreement provides that certain rebates be paid by the City to ADIA for each of the KIA and Mazda dealerships. The City believes it is prohibited by State Law from revealing the amount of sales tax paid by the current owner of the KIA dealership without the confidentiality waiver required in Section 5 of the Amended and Restated Agreement. ADIA is not able to secure the confidentiality waiver from the current owner of the KIA dealership. Accordingly, the City believes it is prohibited from revealing the sales tax information about the KIA dealership necessary to pay the KIA rebate.

E. ADIA disagreed with the City’s position and, on or about August 4, 2014, ADIA served a Notice of Claim on the City demanding payment of rebates with respect to the KIA dealership (the “Notice of Claim”). The City has denied and continues to deny each and all of the claims and contentions made against it in the Notice of Claim, but wishes to resolve the Notice of Claim amicably so as to avoid the time and expense of protracted litigation. In addition, the Parties also desire to have the City pay to ADIA the amounts soon to be due for the rebates related to the Mazda dealership.

F. Subject to the terms, conditions, obligations, representations, warranties, covenants and the release and covenant not to sue contained herein, the Parties, without any

admission of liability or admission of any insufficiency of the matter, which is expressly denied, wish to fully and finally settle, compromise and resolve matters set forth in the Notice of Claim.

## AGREEMENT

NOW, THEREFORE, based upon the foregoing recitals and in consideration of the terms, conditions, obligations, representations, warranties, covenants, and the release and covenant not to sue contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

1. Performance Obligations. In full and final settlement of the Notice of Claim and in consideration of the terms, conditions, release and covenant not to sue that are part of the Agreement, the Parties covenant and agree, as follows:

1.1 Cash Payments. Subject to the terms and conditions stated herein, on or before February 17, 2015, the City shall pay to ADIA the principal sum of \$242,591.83 (the "Cash Payments"), which represents the sum total of the following two amounts:

A. KIA Rebate. \$175,000.00, which represents the entire amount of the rebate due under the terms of the Amended Agreement for the KIA dealership for the period August 1, 2013 through August 31, 2014; and

B. Mazda Rebate. \$67,591.83, which represents the entire amount of the unpaid rebate due under the terms of the Amended Agreement for the Mazda dealership through August 31, 2014.

The Cash Payments will be made by check payable to "Auto Dealer Investments of America, LLC" and delivered to John C. Norling, Esq., Jennings, Strouss & Salmon, P.L.C., One E. Washington Street, 19th Floor, Phoenix, AZ 85004-2554.

1.2 Satisfaction and Extinguishment of the City's Obligations. The Parties hereby acknowledge and agree that, upon the execution of this Agreement by the Parties and the receipt of the Cash Payments by ADIA; any and all obligations of any kind or nature that the City may now have, or has ever had, to ADIA under the Amended Agreement, including but not limited to any and all tax rebate obligations and/or other rebate obligations, shall be terminated, waived, satisfied and/or extinguished.

1.3 ADIA's Obligations Continue. The Parties further acknowledge and agree that nothing contained in this Agreement shall in any way limit, restrict, impair, impede or terminate any of (A) ADIA's duties or obligations under the terms of the Amended Agreement or (B) the City's rights and remedies under the Amended Agreement.

1.4 The City's Retained Rights, Duties, Remedies. Notwithstanding anything contained in this Agreement to the contrary, the Parties hereby expressly acknowledge and agree that the City shall retain any and all audit rights, duties, remedies and enforcement mechanisms associated with tax returns already filed or to-be-filed by ADIA at any point in the future. Nothing contained in this Agreement shall in any way affect, limit, restrict, impair, impede or

terminate any of the City's audit rights, duties, remedies and enforcement mechanisms associated with tax returns already filed or yet-to-be filed by ADIA at any point in the future.

2. Accord and Satisfaction. The Parties expressly acknowledge and agree that the consideration referred to herein (including but not limited to the Cash Payments) is a full accord and satisfaction of all claims alleged or which could have been alleged by ADIA with respect to the rebates due for the KIA dealership and the Mazda dealership and is made (i) solely for preventing involvement in protracted litigation based upon disputed claims and (ii) without admission or concession by the City of any violation of any term of the Amended Agreement or liability on account of any of said claims, or any insufficiency in said claims by ADIA.

3. Release and Covenant Not to Sue. Upon the Effective Date, ADIA, for and on behalf of itself, its predecessors, successors and assigns, and its present and former officers, directors, members, managers, partners, joint venturers, administrators, employees, agents, servants, parents, subsidiaries, affiliated persons and entities, legal representatives, attorneys, advisors, accountants, consultants, and their present and former spouses, marital communities, heirs, survivors, executors and beneficiaries, and all persons acting by, through, under or in concert with any of the foregoing (hereinafter, collectively, the "ADIA Group"), hereby knowingly, voluntarily and irrevocably release, acquit, and forever discharge and covenant not to sue the City and its present and former officers, directors, managers, administrators, employees, agents, servants, legal representatives, members, partners, joint venturers, attorneys, advisors, accountants, contractors, consultants, and their present and former spouses, marital communities, heirs, survivors, executors, beneficiaries, predecessors, successors, assigns, affiliated persons and entities, and all persons acting by, through, under or in concert with any of the foregoing, whether herein specifically named or not, of and from any and all claims, demands, suits, proceedings, actions, causes of action, charges, grievances, orders, obligations, contracts, agreements, representations, warranties, covenants, promises, debts, liabilities, losses, sums of money, accounts, damages, attorneys' fees, costs, expenses, injuries, judgments, liens, penalties and fines of any kind or nature whatsoever, whether heretofore or hereafter accruing, whether at law or in equity, whether contingent or fixed, liquidated or unliquidated, known or unknown, suspected or unsuspected, whether in contract or tort, or arising under or by virtue of any statute or regulation, whether exemplary, compensatory or punitive, whether in the past, present or future, which were or could have been raised or asserted in the Notice of Claim and/or which arose out of or which relate in any way to the alleged acts, omissions, errors, statements, transactions or occurrences or series of transactions or occurrences giving rise to the Notice of Claim and/or arising out of or which relate, in any way, to (i) the Amended Agreement and/or (ii) the City's performance under the Amended Agreement.

3.1 Assumption of Risk. The foregoing release is intended to, and does, release all claims for injury or damage arising from or in connection with or in any way related to any of the matters set forth above, whether or not fully known to the Parties at the time this Agreement is executed. It is understood by ADIA and the other members of the ADIA Group that there is a risk that, subsequent to the execution of this Agreement, they may suffer loss, damage or injury that is in some way caused by or related to the subject matter of the foregoing acts and/or events, but which is unknown or unanticipated at the time of executing this Agreement, or that losses or damages presently known may become greater than any Party currently expects or anticipates, and ADIA and the other members of the ADIA Group expressly

assume the risk of such unexpected or unanticipated losses and damages, and waive any rights they may have otherwise had to seek redress for such losses and damages, except pursuant to the terms of this Agreement. Provided, however, the foregoing release, discharge, waiver and covenant not to sue does not, and is not intended to, release or otherwise discharge the City from its duties and obligations under this Agreement, or from the terms, conditions, representations, warranties and covenants set forth in this Agreement.

3.2 Waiver of Rights. ADIA and the other members of the ADIA Group hereby expressly waive (A) the benefits and provisions of the laws of Arizona or of any other state or jurisdiction, including but not limited to Section 1542 of the California Civil Code (to the extent applicable), and any principle of common law, which provide that a general release does not extend to claims that the Party does not know or suspect to exist in its favor at the time of executing the release, which if known to him may have materially affected the settlement and (B) any and all rights which they, or any of them, may have to invoke said provisions or principles, either now or in the future, with respect to any and all matters covered by the releases set forth in this Agreement. It is the intention of ADIA and the other members of the ADIA Group to forever discharge and release known and unknown, present and future claims within the scope of the releases set forth herein.

4. Relationship of the Parties. Nothing contained in this Agreement shall be construed to establish the Parties hereto as partners, joint venturers, or as agents of any other party, and except for the terms and conditions herein, no Party has any power to obligate or bind any other Party in any manner whatsoever.

5. Representations, Warranties and Covenants.

5.1 Right to Make Agreement and Capacity to Sign. The Parties represent, warrant and covenant that they have the sole right and exclusive power and authority to enter into and make this Agreement. The Parties further represent, warrant and covenant that they have the full power and authority to perform their respective obligations in accordance with the terms and conditions hereof. Each person executing this Agreement hereby represents, warrants and covenants that he or she is the duly authorized representative of the Party for which he or she acts and is fully and legally empowered to (A) execute and deliver this Agreement for and on behalf of the Party for which he or she acts and (B) bind that Party. Each Party to this Agreement and each individual signing this Agreement separately acknowledges and agrees that the foregoing representations, warranties and covenants are essential and material provisions of this Agreement and shall survive the execution of this Agreement.

5.2 No Transfer. ADIA, for itself and for each member of the ADIA Group, represents, warrants and covenants that it has the sole right and exclusive authority to execute the release contemplated by this Agreement, and that it has not previously transferred, conveyed, pledged, assigned, sold, subrogated or otherwise disposed of, (A) any right, interest, demand, action, cause of action, judgment, lien, indebtedness, damage, obligation, loss, claim, liability, or any other matter covered in, or released by, this Agreement, and/or (B) any amount of money related to the Parties' settlement, and ADIA hereby expressly waives any and all rights to do so. The Parties separately acknowledge and agree that the foregoing representation, warranty and

covenant is an essential and material provision of this Agreement and shall survive the execution of this Agreement.

5.3 Advice of Counsel. The Parties acknowledge that they have been advised by counsel of their own choice in connection with negotiation and preparation of this Agreement, that each of them and their counsel have had an opportunity to review the Agreement, that the terms of the Agreement have been completely read by them and explained to them, that the terms are fully understood and voluntarily accepted by them, and that they intend to be legally bound by its terms. The Parties hereto further expressly acknowledge that they have acted voluntarily and without duress in connection with the negotiation, execution and delivery of this Agreement.

5.4 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of authorship of any provision of this Agreement. Counsel for each of the Parties have reviewed and approved the form of this Agreement and its exhibit.

5.5 Compromise. It is understood and agreed that the provisions in the Agreement for consideration, release, discharge and covenant not to sue are in settlement of disputed claims, liability for which is expressly denied, and that the Parties wish to avoid the time and expense of litigation. Nothing in this Agreement is to be construed as an admission of liability on the part of the City, all liability being expressly denied, and is not to be construed as any insufficiency in its claims by ADIA, but such provisions are made solely in compromise and settlement of the disputed matters.

6. Cooperation of the Parties. All Parties covenant and agree to cooperate fully and to execute and deliver any and all supplementary documents and instruments that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

7. Miscellaneous.

7.1 Notice and Service. 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 ADIA: ADIA  
5050 W. Sahara Avenue  
Las Vegas, NV 89146  
Attn: Ms. Toni Naidoo

With a copy to: Jennings, Strouss & Salmon, P.L.C.  
One E. Washington Street, Suite 1900  
Phoenix, AZ 85004-2554  
Attn: John C. Norling

If to the City: City of Avondale  
11465 W. Civic Center Drive, Suite 280  
Avondale, AZ 85323  
Attn: David W. Fitzhugh, City Manager

With a copy to: Gust Rosenfeld, PLC  
One E. Washington Street, Suite 1600  
Phoenix, AZ 85004-2553  
Attn: Andrew J. McGuire, Esq.

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.

7.2 Assignment. Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned by any Party without the prior written consent of the other Party. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors, heirs, legal representatives and permitted assigns.

7.3 Choice of Law: Jurisdiction and Venue. The validity, construction, interpretation, administration and enforcement of this Agreement shall be governed by the internal laws of the State of Arizona, without regard to the principles of conflict of laws. Each Party irrevocably and unconditionally agrees and consents that any suit, action or other legal proceeding brought to enforce any of the obligations, terms, covenants or conditions of this Agreement shall be brought in a court of competent jurisdiction in Maricopa County, Arizona, and each Party irrevocably consents to personal jurisdiction in said location. If any action shall be brought because or on account of any default or breach of, or to enforce any of the obligations, terms, covenants or conditions of, this Agreement, the prevailing Party in any such action shall be entitled to recover from the other Party all of its costs and reasonable attorneys' fees.

7.4 Full and Complete Defense. This Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding which may be instituted, prosecuted or attempted for, upon or in respect of any of the matters or claims released herein.

7.5 Integration Clause. The Parties and/or their attorneys have engaged in negotiations resulting in the execution of this Agreement. All of those negotiations have been

completed and are merged into this Agreement, which states as a final, complete, express, written and unambiguous integration exactly what the Parties have agreed. With respect to its subject matter, including without limitation all matters incorporated herein by reference, this Agreement is a complete integration and final expression of the Parties' rights and duties and supersedes all prior or contemporaneous oral or written understandings, agreements, statements or promises. This Agreement is intended to be enforceable according to its written terms. There are no promises, oral agreements, representations, understandings or expectations of the Parties to the contrary.

7.6 Modifications and Amendments. No alteration, modification or amendment of any provision of this Agreement shall be effective unless it is in writing and signed by both Parties.

7.7 Waiver. No waiver of any term or condition of this Agreement shall be effective unless it is in writing and is signed by the Party against whom enforcement of the waiver is sought, and then only in the particular circumstances specified. No failure by a Party to exercise any right or privilege provided for herein, or to require timely performance of any obligation herein in strict accordance with the provisions hereof, shall preclude the exercise of such rights or privileges or the enforcement of such obligations in different circumstances or upon the reoccurrence of the same or similar circumstances. Moreover, the exercise of any remedy provided for at law, in equity, or herein shall not impliedly preclude the exercise of any other remedy except when, and then only to the extent that, the other remedy is expressly forbidden or limited by the provisions hereof.

7.8 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement is effective upon the execution of at least one counterpart by each Party to this Agreement. A faxed or scanned signature page shall be valid as an original.

7.9 Titles. The titles, captions and headings contained in this Agreement are inserted for convenience of reference only and shall not control or affect the meaning or interpretation of this Agreement.

7.10 Variation of Pronouns. All pronouns and all variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity or identities of the antecedent person or persons may require.

7.11 Costs, Attorneys' Fees and Expenses. The Parties to this Agreement understand and agree that each Party is responsible for bearing its own costs and attorneys' fees incurred in connection with the Notice of Claim, the negotiation and preparation of this Agreement and all matters or events up to the present time.

7.12 Conflict of Interest. This Agreement may be canceled by the City pursuant to A.R.S. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

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

\_\_\_\_\_  
David W. Fitzhugh, City Manager

ATTEST:

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

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

On \_\_\_\_\_, 2015, before me personally appeared David W. Fitzhugh, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

\_\_\_\_\_  
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]





## CITY COUNCIL AGENDA

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**SUBJECT:**

Resolution 3239-215 - Intergovernmental  
Agreement - Tolleson Union High School District  
for Resource Officer

**MEETING DATE:**

2/2/2015

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**TO:** Mayor and Council**FROM:** Dale Nannenga, Police Chief (623) 333-7207**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement between the Tolleson Union High School District #214 and the City of Avondale to share the cost of providing a School Resource Officer (SRO) during the 2014/2015 school year, for both Westview High School and La Joya High School during the school year.

**BACKGROUND:**

In recent years the population increase in Avondale has revealed school safety issues that has identified the benefit/need to maintain an SRO in the high schools located in Avondale. In 1994 the City of Avondale began to actively pursue alternative funding for the SRO program. Eventually, the school districts and the City of Avondale made state and federal grant requests to fund the SRO's. In August of 2013, the Tolleson Union High School District was awarded the School Safety Program Grant that will cover 100% of the SRO's salaries at Westview High School and La Joya High School.

**DISCUSSION:**

The proposed IGA establishes a funding agreement for the school year running from July 01, 2014, through June 30, 2015, for Westview and La Joya High Schools and it provides for direction, supervision and management of the assigned SRO. The SRO program continues the partnership between the police department and Westview and La Joya High Schools. The SRO will work with school staff to coordinate a variety of law enforcement related topics including criminal law, traffic law and constitutional law. The SRO will provide a positive police role model for the students as well as serving as a security advisor to school administrators. The police department enjoys the benefit of having an SRO assigned to these schools who can field most calls for service that would normally be handled by a patrol officer. Further, the SRO conducts follow up on criminal investigations involving the students attending Westview and La Joya, which provides relief to officers who would otherwise handle these follow up investigations.

**BUDGET IMPACT:**

The Tolleson Union High School District received the School Safety Program Grant which will pay 100% of the SRO's salary and ERE for the period of August 5, 2014 – May 27, 2015. The grant will not pay for overtime; that cost will be split 50/50 between the district and the City of Avondale. The cost sharing between the City of Avondale and the Tolleson Union High School District #214 is as

follows:

### Westview

- Total yearly salary and ERE for the assigned SRO at Westview High School is \$98,298 of which months are covered by the School Safety Program Grant in the amount of \$81,915.
- The total cost to the City's would be \$16,383 for the SRO at Westview High School as the City of Avondale will pay 100% of the SRO's total salary and ERE when school is not in session.
- Overtime will be split 50/50 between the district and city up to 40 hours annually.

### LaJoya

- Total yearly salary and ERE for the assigned SRO at LaJoya High School is \$79,697 of which ten months are covered by School Safety Program Grant in the amount \$66,414.
- The total cost to the city would be \$13,283 for the SRO at LaJoya High School as the City of Avondale will pay 100% of salary and ERE when school is out of session.
- Overtime will be split 50/50 between the district and city up to 40 hours annually.

### **RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution authorizing an Intergovernmental Agreement between the Tolleson Union High School District #214 and the City of Avondale to share the cost of providing a School Resource Officer during August 2014 and September 2014. During the period of August 5, 2014, to May 27, 2015, the salaries, except overtime, of both SRO's are covered 100% by the School Safety Program Grant that was awarded to the Tolleson Union High School District.

### **ATTACHMENTS:**

#### **Description**

[Resolution 3239-215](#)

**RESOLUTION NO. 3239-215**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH TOLLESON UNION HIGH SCHOOL DISTRICT NO. 214 RELATING TO SCHOOL RESOURCE OFFICER SERVICES FOR LA JOYA COMMUNITY HIGH SCHOOL AND WESTVIEW HIGH SCHOOL.

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

SECTION 1. The Intergovernmental Agreement with Tolleson Union High School District No. 214 relating to school resource officer services for La Joya Community High School and Westview High School (the "Agreement") is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, February 2, 2015.

---

Kenneth N. Weise, Mayor

ATTEST:

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Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3239-215

[Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
TOLLESON UNION HIGH SCHOOL DISTRICT NO. 214  
AND  
THE CITY OF AVONDALE  
FOR  
SCHOOL RESOURCE OFFICER SERVICES**

**(Westview High School and La Joya Community High School)**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is entered into as of February 2, 2015 between the City of Avondale, an Arizona municipal corporation (the "City"), and the Tolleson Union High School District No. 214, an Arizona school district (the "District").

RECITALS

A. The District has funding available through its School Safety Program Grant to fund the cost for school resource officer services (the "SRO Services") for La Joya Community High School located at 11650 West Whyman Avenue, Avondale Arizona 85323 and Westview High School located at 10850 West Garden Lakes Parkway, Avondale, Arizona 85392 (each a "School," collectively, the "Schools").

B. The City and the District desire to enter into this Agreement whereby the City will provide sworn, certified police officers to serve as school resource officers (each, an "SRO," collectively, the "SROs") to provide the SRO Services at the Schools; and

C. The District is authorized by ARIZ. REV. STAT. § 15-342(13), ARIZ. REV. STAT. § 11-952, and the approval of its governing board to enter into this Agreement; and

D. The City is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 11-952 and the Avondale City Charter, Article I, Section 3.

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:

SECTION I – OBLIGATIONS OF THE CITY

1.1 Services to be Provided.

a. The City shall assign two police officers to the District to provide SRO Services at the Schools on an hourly basis as more particularly set forth herein. The City agrees to involve the District, in the selection process for the SRO, by allowing a School administrator to be on the final selection committee once the Avondale Police Department has identified final candidates for the SRO position. The City will endeavor to ensure that the SROs assigned to the

District will be available for duty at their assigned School for up to 40 hours each week that the School is in session (August 2014 through May 2015) during the term of this Agreement. If feasible, and subject to the sole discretion of the City, the SROs assigned to the Schools will be the same individual during the three year School Safety Grant Program cycle.

b. The City police officer performing SRO Services shall fulfill his or her duties as a sworn law enforcement officer for the State of Arizona. The SRO will be present and accessible on the assigned School campus as scheduled by the District. Notwithstanding the foregoing, the SRO may be temporarily assigned to duties other than SRO Services during school times as deemed necessary by the City's Police Chief or authorized designee, in his or her sole discretion. If the SRO is called away on police business including, but not limited to, City- mandated training, City-mandated meetings, City-related emergencies, etc., the District shall not be invoiced for that time, and the costs for such time shall be borne by the City. If the SRO is attending an SRO-related training or other activity mandated by the School, the District shall be invoiced as described in Section 2.1.

c. The SROs' activities will be restricted to their assigned School grounds except as otherwise directed by the City's Police Chief or authorized designee as set forth in subsection 1.1(b) above and for:

1. Follow-up home visits when needed as a result of School-related problems.
2. Incentive programs approved by the parties.
3. In response to off-campus, but School-related, criminal activity.
4. Attendance at off-campus events or meetings.
5. Attendance at training at the request of the District or School.

d. When School is not in session, including all breaks, School-observed holidays, and School vacations, the City shall have full discretion to assign the SRO responsibilities; provided, however, that the City shall be responsible for 100% of the SRO's costs when so assigned.

e. The City represents and warrants that it will ensure that each officer assigned to perform SRO Services on District property pursuant to this Agreement will be sworn City police officers. Each SRO will be fingerprinted and successfully complete a background check performed by the City before such assignment. The City shall, within ten business days upon request by the District, provide a letter of verification to District of SRO's successful criminal records check.

f. Where applicable, the roles and responsibilities of the City and the District with respect to the SRO Services shall be as set forth in the Avondale Police

Department SRO Program, attached hereto as Exhibit A and incorporated herein by reference.

g. Notwithstanding subsection 1.1(f) above, the parties acknowledge that the SRO Services provided at Westview and La Joya Community shall include one-hundred and eighty (180) hours of law related education (“LRE”), which shall consist of 80 hours of classroom instruction to ongoing cohort groups of students and 100 hours of universal instruction.

h. Each officer assigned to perform SRO services shall attend annual training required by the Arizona Department of Education.

1.2 Invoices; Salary Rates. The City shall invoice the District quarterly, based upon SRO Services performed and completed to date. The SRO’s salary and employer-paid benefits rate shall be used to calculate the amount due from the District for SRO Services. Supporting documentation of these actual amounts must be on file with the District’s Office prior to payment of any invoice to the City.

## SECTION II- OBLIGATIONS OF THE DISTRICT

2.1 Reimbursement to City - Quarterly. The District shall reimburse the City quarterly for the services it provides pursuant to subsection 1.2 above.

A. The District shall pay the City an amount not to exceed \$87,944 for SRO Services at La Joya Community High School and Westview High School for the SROs’ benefits and salary. The City shall pay 100% of the SROs’ costs during the two-month summer break and any other school breaks or school observed holidays or vacations during which the City assigns the SRO to City related duties. The SROs’ time spent at La Joya Community High School and Westview High School, including all overtime, must be substantiated by time cards and approved by the high schools’ Dean of Students. The District and the City shall equally share the cost of any SRO overtime worked on school-related investigations, with each party paying 50% of the cost. The District shall not use any grant funds to pay for overtime costs associated with SRO overtime. The SRO must seek approval from the appropriate Avondale Police Department (the “Department”) supervisor before working on school-related overtime. Overtime payments shall not exceed, under any circumstance, forty (40) hours annually. The District will not pay for any SRO Services for week-long school breaks in October, December, January and March, nor for any personal vacations taken by an SRO nor for any sick leave incurred by an SRO.

B. The District shall pay invoices from the City within 30 days of receipt, assuming proper documentation is on file to support the charges.

2.2 Office Space. The District shall provide office space that provides privacy for the SRO to conduct confidential business. The office provided shall include the

necessary equipment for the SRO to effectively perform his or her duties, including, without limitation, a telephone, desk, chair and filing cabinet.

2.3 Non-Interference by District. No District or School administrator shall interfere with an SRO's sworn law enforcement duties. It is agreed, however, that at such time as an SRO is acting within the role of a sworn law enforcement officer but is also acting outside of or in excess of the District's rules and policies regarding interviewing and searching students and/or use of appropriate physical force on students, the City shall hold the District harmless from such actions by the SRO. The SRO shall not assist in the District's administrative discipline process unless a definitive danger is perceived by school staff or the student is suspected of criminal activity.

2.4 Removal of SRO. The District may request that an SRO be removed from a School if the District determines that the SRO is displaying inappropriate conduct that negatively affects or distracts from the teaching environment or poses a danger to the children at that School or to District employees, provided that the District shall immediately contact the SRO's superior officer and the person designated by the City in Section 3.6 below to describe the situation and to describe the SRO's inappropriate conduct or the District's concern for the safety of the children. In such event, the District shall direct the SRO to return to the Avondale Police Department. The District shall direct the SRO to return to the Avondale Police Department. Within seventy-two (72) hours of receipt of notice of the request for removal of an SRO from a School, and in accordance with the City's Police Department's internal policies, the City agrees to assign a replacement SRO to provide the SRO Services to the District under this Agreement if the removal is deemed appropriate by the City's Police Chief or authorized designee, in his or her sole discretion. If a replacement SRO cannot be assigned to the campus, the District shall be credited for each day an SRO is not assigned to the campus. The District, at its sole discretion, may refuse the assignment to the District of any officer who has been removed from the District because of allegations of unprofessional, illegal, or immoral conduct. If the issues cannot be resolved regarding the removal and replacement of a SRO under this section 2.4, the parties agree that the District may terminate this Agreement or the City and the District may mutually agree that the School will no longer have a SRO for the remainder of the school year and the District will not be required to pay for the unfulfilled portion of the SRO's work. The District shall pay the City for work performed by the SRO through the date of removal.

2.5 Status Meetings. By mutual agreement, the parties may meet from time to time for purposes of discussing the status and conduct of the work being performed under this Agreement, and addressing any problems that have come to the parties' attention and their views as to how such problems may be resolved, including amending the terms and conditions of this Agreement.

### SECTION III - GENERAL TERMS AND CONDITIONS

3.1 Indemnification. To the extent permitted by law each party shall defend, indemnify and hold harmless the other party and its departments, officers, employees and agents for, from and against all losses, damages, claims, liabilities and expenses



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 the District: Tolleson Union High School District  
9801 West Van Buren Street  
Tolleson, Arizona 85353  
Attn: Hilda Ortega-Rosales

With a copy to: Udall Shumway P.L.C.  
1138 N. Alma School Road  
Mesa, Arizona 85201  
Attn: Cathleen M. Dooley, Esq.

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 (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.

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

3.8 Program Continuation Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. Each party acknowledges and agrees that performance by either party is dependent upon appropriation of funds to or by that party. The provisions of this Agreement for SRO Services shall be effective when funds are appropriated by each party for purposes of this Agreement and are actually available for payment. Each party shall be the sole judge and authority in determining the availability of funds under this Agreement and each party shall keep the other party fully informed as to the availability of funds for the SRO Services. The obligation of the parties to make any payment pursuant to this Agreement is a current expense of each party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of either party. If the City Council or District Board fails to appropriate money sufficient to meet the financial obligations as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at

the end of then-current fiscal year and the City and the District shall be relieved of any subsequent obligation under this Agreement.

3.9 Entire Agreement. This Agreement comprises the entire agreement of the parties and supersedes any and all other agreements or understandings, oral and written, whether previous to the execution hereof or contemporaneous herewith. Any amendments or modifications to this Agreement shall be made only in writing and signed by the persons duly authorized to enter into contracts on behalf of the City and the District.

3.10 Applicable Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

3.11 Cancellation. The parties hereto acknowledge that this Agreement is subject to cancellation pursuant to ARIZ. REV. STAT. § 38-511.

3.12 Workers' Compensation. An employee of either party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of ARIZ. REV. STAT. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each party shall post a notice pursuant to the provisions of ARIZ. REV. STAT. § 23-1022.

3.13 FERPA Compliance. Both parties will ensure that the dissemination and disposition of educational records complies at all times with the Family Educational Rights and Privacy Act of 1974 and any subsequent amendments thereto.

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

3.15 Disposition of Property upon Termination of the Agreement. The parties do not anticipate having to dispose of any property upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner.

3.16 Dispute Resolution Process. The parties shall use all reasonable efforts to resolve any dispute or claim through good faith negotiations. If the parties are unable to resolve the dispute or claim through negotiations, upon the written request of either party, the City's Police Chief, or designee, and the Principal, or designee, will attempt to resolve the matter within 10 calendar days of the date the matter was referred to them. If the matter is still not resolved, the matter will be immediately referred to the City Manager, or designee, and the District Superintendent, or designee. If the matter is still not resolved within 10 calendar days, the parties may terminate this Agreement in accordance with Section 3.5 above.

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

3.18 Fingerprinting Requirements. The parties shall comply with the fingerprinting requirements of ARIZ. REV. STAT. § 15-512 unless otherwise exempted.

3.19 Coordination of Student Misconduct. The parties shall work together to identify and streamline any separate processes for investigating and responding to acts of student misconduct that may also implicate criminal misconduct.

3.20 Chain of Command and Channels of Communication. The Principal or the Principal's authorized designee will communicate directly with the SRO Supervisor concerning any issues involving the SROs. If there is an issue that cannot be resolved between the Principal and the SRO Supervisor, the District's Grants and Federal Program Coordinator will communicate with the SRO Supervisor or his or her supervisor, as determined by the City.

[SIGNATURES ON FOLLOWING PAGE]

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

“City”

“District”

CITY OF AVONDALE, an Arizona  
municipal corporation

TOLLESON UNION HIGH SCHOOL  
DISTRICT NO. 214, an Arizona school  
district

By: \_\_\_\_\_  
Kenneth N. Weise, Mayor

By: \_\_\_\_\_  
Lexi Cunningham, Superintendent

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

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

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

\_\_\_\_\_  
Cathleen M. Dooley, Attorney for the District

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

EXHIBIT A  
TO  
INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
TOLLESON UNION HIGH SCHOOL DISTRICT NO. 214  
AND  
THE CITY OF AVONDALE  
FOR  
SCHOOL RESOURCE OFFICER SERVICES  
[Avondale Police Department SRO Program]

See following pages.

## AVONDALE POLICE DEPARTMENT SRO PROGRAM

### **I. Introduction.**

The mission of the Avondale Police SRO Program is to contribute to an orderly, purposeful atmosphere, which promotes the feeling of safety conducive to teaching and learning on school campuses in the City of Avondale. This is accomplished by assigning the same Police Officer to the same campus for an extended period of time. The SRO will first and foremost perform the duties of a police officer to include, criminal investigations, interviews, interrogations, case follow-up and arrests when necessary. The SRO will establish trusting lines of communication with students, parents and teachers. The SRO will serve as a positive role model to instill good moral standards, good judgment, respect for others, and sincere concern for the school community. The SRO will promote citizen awareness of the law to enable students to become better-informed and effective citizens, while empowering students with the knowledge of law enforcement efforts and obligations regarding enforcement as well as consequences for violations of the law. The SRO will serve as a confidential resource for administrators, teachers, and students concerning problems they face on the campus as well as providing information on community resources available to them.

### **II. Mission and Values.**

Avondale Police SROs will follow the established mission and values of the Avondale Police Department in the course of their duties at Avondale schools. These mission and values set the tone and direction for Avondale Police employees to follow:

**A. Mission - “Serving with Honor”:** The Mission Statement is the essence of how the organization reaches the vision. It defines the path all members must take in order to make the vision a reality. By asking ourselves the question, “Are we serving with honor,” every time we interact with members of our community, our fellow employees, and other City employees, we have, in fact, moved closer to our vision.

#### **B. Values:**

1. **Accountability:** All members of the Avondale Police Department are accountable for their actions in accordance with the mission.

2. **Customer Service:** We strive to exceed the expectations of our internal and external customers. This is accomplished, in part, through timely follow-up, courteous service, and having mutual respect and compassion for all those with whom we interact.

3. **Diversity:** We support an organization that contains employees from various backgrounds which helps to improve how we relate to the various cultures in our community. Most importantly, we look for the strength of diversity in the employees we hire which goes beyond exterior diversity and includes the ability to look past our differences and recognize being different is actually a strength.

4. Employee Involvement: When appropriate, employees are encouraged and expected to be involved in organizational decision-making and research. We recognize the benefits of creating an environment where employees feel comfortable providing their input without retribution.

5. Fairness: All decisions and actions taken by the Avondale Police Department are to be based on a fair and objective process. Transfers, promotions, training attendance and other career opportunities are based on the needs of the organization and the performance history of those involved, nothing more.

6. Integrity: Providing police services require the trust of those we serve. Whether responding to a request regarding your actions in a specific situation, or providing any police service, employees are expected to be truthful to maintain the credibility of the department.

7. Open Communication: We work to create a work environment where employees at all levels can provide input, receive feedback and ask questions. This creates an employee group that is informed and while they may not agree with every decision, they are entitled to an explanation provided it does not compromise the integrity of the situation.

8. Professionalism: Not only are we striving to make the organization more professional, we recognize the importance of providing services in a professional manner. The manner in which we interact with others is professional, the work product is professional, and our appearance is professional.

9. Teamwork: The Avondale Police Department is successful due to the synergy created when all areas of the Department work together towards mission accomplishment. There is not one work area more important than another. There is no difference in terms of organizational importance regarding “sworn” or “professional staff” positions and each Bureau Manager is expected to recognize and endorse the philosophy that teamwork is critical to a successful police department.

### **III. Goals.**

#### **A. To reduce incidents of school violence:**

1. Enforce city code and state laws.
2. ZERO tolerance for drug offenses, weapons offenses, violent acts leading to serious injury and threats towards to students, staff or parents.
3. High visibility during peak times such as; morning, lunch, assemblies and after school.

#### **B. Reduction of criminal offenses committed by students.**

1. Provide counseling to students and parents to educate them regarding the law and consequences of violating the law.

#### **C. Establish positive rapport with students and parents.**

1. Be honest and professional in all interactions with parents and students.
2. Provide LRE counseling to students and parents to inform them of the law, their rights, expectations as citizens and consequences for violating the law.
3. Attend extra-curricular student activities when feasible.

**D. Establish positive rapport with teachers, staff and administrators.**

1. Be honest and professional in all interactions with teachers, staff and administrators.
2. Provide guidance and support on law-related problems occurring on the campus.
3. Be responsive to questions and requests from school administrators when feasible and within the parameters of the law.

**IV. Organizational Structure.**

**A. Supervision:** The day-to-day operation and administrative control of the SRO program will be the responsibility of the Avondale Police Department. Responsibility for the conduct and performance of the SRO shall remain with the Avondale Police Department. The City of Avondale will provide supervisory personnel to oversee the program.

**B. SRO Accountability:** The La Joya Community High School and Westview High School principal or designees will provide a written evaluation of the SRO performance relating to the goals established in this Agreement once a semester. School staff shall contact the SRO Supervisor to report performance or conduct related complaints involving SROs as soon as they become aware of it. It will be the responsibility of the Avondale Police Department to investigate any misconduct allegations against an SRO.

**V. Procedures.**

The City of Avondale SRO program shall utilize procedures in accordance with State Law, The Arizona School Safety Program Manual, and in accordance with Avondale Police Department policies and procedures.

- SROs are first and foremost police officers and shall be responsible for carrying out all duties and responsibilities of a police officer in the City of Avondale and shall at all times remain under the command and control of the Avondale Police Department.
- SROs shall not enforce any school or district rules.
- SROs are not disciplinarians and shall not assume this role under any circumstances.
- SROs report directly to an Avondale Police Supervisor for all activities.
- SROs will not involve themselves with La Joya Community High School and Westview High School administrative matters that are not criminal offenses.
- SROs are not formal counselors, and will not act as such, however, they are to be used as a law related resource to assist students, staff and all persons involved with La Joya Community High School and Westview High School.

- SROs will present varied topics to students to better inform them of their rights and expectations as citizens as well as consequences for violating laws. The SROs' are not certified teachers and therefore should present in classrooms with a teacher present at all times.

## **VI. SRO Selection.**

### **A. Recommended Qualifications:**

- Desire to work with students, educators, and parents.
- Willingness to teach law-related education.
- Supportive of prevention strategies.
- Satisfactory employment history with supporting documentation.
- Demonstrated effectiveness in working with youth.
- Oral and written communication skills.
- Ability to effectively interact and communicate with diverse sets of individuals.
- Supportive of the philosophy of the SRO program.
- Willingness to attend law-related education training to implement and maintain LRE programs to meet the needs of the students.
- AZPOST certified general instructor.

### **B. SRO Duties Include:**

- Establish liaison with school administrators, staff, students, and parents.
- Inform students of their rights and responsibilities as lawful citizens through presentation of law-related education in the classroom.
- Network with community agencies that may or do provide services to the school.
- Act as a resource in the investigation of school related criminal activities
- Participate in the Parent-Teacher association as requested.
- Participate in campus activities, student organizations, and athletic events when feasible and appropriate.
- Provided a visible deterrence to crime while presenting a positive impression of a law enforcement officer.
- Investigate criminal offenses occurring on campus.
- Conduct follow-up of assigned criminal cases.
- Conduct interviews, interrogations and make arrests when necessary.
- Provide information when requested to students, parents, and staff in law-related situations.
- Maintain tracking system of statistical information required by supervisor and school administration.

## **VII. SRO Role.**

The School Resource Officer has three basic roles:

### **A. Law Enforcement Officer:**

1. The SRO is, first of all, a sworn law-enforcement officer. When necessary the SRO has the authority to intervene as a law-enforcement officer. This includes the investigation of criminal offenses, conducting interviews and interrogations, following up on assigned cases and making necessary arrests.
2. Administrators should take the lead on school policy violations. The SRO should be involved when a student's conduct violates a law.
3. As partners in school safety, SRO and administrators shall work together to develop procedures for ongoing communication to ensure timely and uniform reporting of criminal activities.
4. An SRO assigned to a school with a juvenile probation officer (PO) is expected to work as a team. The SRO should know the role of the PO.
5. The SRO should serve on the School Safety Committee and collaborate on the development of the safe school plan.
6. The SRO should build a relationship with students, parents and staff that promotes a positive image of law enforcement.

### **B. Law-Related Educator:**

1. The SRO should collaborate with classroom teachers to engage teachers to integrate law-related education into their curriculum. The teacher must be present in the classroom during LRE instruction.
2. The SRO must keep an activity log that tracks LRE classroom instruction hours and law enforcement or probation activity. Situations that take an officer off their assigned campus must be logged. This data must be shared with the school administrator and agency supervisor. The following data will be tracked and provided to the La Joya Community High School and Westview High School Principal or designee:
  - a. Total hours of LRE classroom instruction
  - b. LRE topic and law enforcement
  - c. Teacher name and subject of each class where an LRE lesson is taught
  - d. Total hours of Law Enforcement/ Probation activity
  - e. Time spent per LRE lesson
  - f. Total time spent off campus

### **C. Positive Role Model:**

1. The SRO should set limits being clear about what is acceptable and what is not; letting students know the consequences of unacceptable behavior and the rewards of acceptable behavior.
2. The SRO should set an example by modeling how to handle stress, resolve conflicts, celebrate successes, and how to be a friend.
3. The SRO should be honest by providing accurate information.

4. The SRO should be consistent with students, staff, and parents in applying rules and regulations.
5. The SRO should encourage responsibility by helping students think through options and consequences of decisions, set personal goals, and develop plans to make desired changes.
6. The SRO should show respect by treating students with respect and expressing high expectations for them.
7. The SRO should always strive to be a positive role model because students learn from every observation of or interaction with the SRO.

### **VIII. SRO Supervisor Role:**

The SRO Supervisor's responsibilities include but may not be limited to:

- Communicate to staff, and carry out the philosophy and goal of the City of Avondale SRO program.
- Attend SRO program management training for supervisors.
- Conduct on-going visits to schools under their supervision.
- Ensures the SRO keep an activity log that tracks LRE classroom instruction hours, the topic of each LRE class and law enforcement or probation activity and situations that take an officer off their assigned campus.
- Motivate officers and provide positive reinforcement recognizing excellent performance.
- Review all investigations by assigned SRO for accuracy, thoroughness and proper procedures.
- Supervise and monitor performance of SRO, including confronting performance deficiencies and providing documentation and plan for improvement.
- Thoroughly investigate and document allegations of SRO misconduct.
- Regularly brief their Lieutenant on any unusual incidents at Avondale Schools.
- Ensure SROs conduct timely, professional and thorough investigations of criminal activity on school campuses.
- Conduct one supervisory follow-up of a criminal investigation per SRO per semester. Includes a written evaluation and assessment of the SRO's performance.
- Meet collectively with SROs once a month for training, policy review, and collaboration.
- Provide School principal or designee with a monthly recap of SRO activities to include number of LRE hours, time off campus and law enforcement activity.
- Meet with or talk on the telephone with principal of schools that have SROs, once a month to discuss SRO performance and law enforcement-related issues.

### **IX. School District Role:**

The district administrator, site principal and teachers' support of the SRO program is vital to the program's success.

#### **A. District Level:**

1. Supports and communicates the SRO program philosophy to all site staff.
2. Understands the SRO program requirements.
3. Develops and keeps open communication with local law enforcement.

**B. Building Level Administration:**

1. Supports and communicates the SRO program philosophy to all staff, students and parents on their campus.
2. Promotes the integration of law-related education into the classrooms.
3. Understands and agrees to the SRO program guidelines.
4. Ensures a teacher is present in the classroom at all times during LRE instruction.
5. Introduces the officer to staff and students.
6. Develops a collaborative relationship with the SRO while allowing the officer to function independently. The officer serves as a resource to the students and staff.
7. Meets with the SRO before the first day of duty to review the Service Agreement, operational procedures and specifics of the program on campus.
8. Monitors the program's implementation process and meets with the SRO on a regular schedule.
9. Directs staff development of teachers and SRO involved in the delivery of LRE.
10. Provides a semi-annual evaluation of the SRO relating to their role as an SRO.

**C. Teacher:**

1. Supports and communicates information about the SRO program in their classrooms to students and parents.
2. Understands and agrees to the program guidelines.
3. Teams with the SRO in planning and delivery of law-related education units in their classroom. A teacher must be present in the classroom at all times during LRE instruction.

**X. The Performance Evaluation**

A semi-annual performance evaluation shall be conducted by a school administrator and shared with the SRO's supervisor. The evaluation is meant to assist the SRO and his/her supervisor in meeting the intent of the SRO program and carrying out his or her duties. It is not meant to supplant the official evaluation process used by the SRO's department or agency. Only SROs that have performed in a satisfactory manner should be considered for further service in the SRO program. The following are recommended factors to consider:

- Does the officer have a clear sense of his/her role?
- Does the officer understand the operational policies and procedures of the school necessary to perform effectively in the position?
- Has the officer attended or scheduled to take a law-related education class in the current year?
- How does the officer relate to staff, students, and parents?
- Does the officer work well independently?

- Does the officer perform his/her duties effectively?
- How effective is the officer with classroom presentations?

If a problem occurs, it should first be addressed at the site level between the officer and administration. If a resolution is not reached, the grievance should then move through the process as established by the officer's department and school's policy.

## **XI. Law Related Education (LRE)**<sup>1</sup>

**A. LRE Defined.** Law-Related Education is the teaching of rules, laws, and the legal system that actively involves students to prepare them for responsible citizenship. It also provides instructions in legal rights, responsibilities, and the role of the citizen and requires students to practice the application of LRE in potential real-life situations. (*Adopted by the Arizona Center for Law-Related Education from the Virginia Institute for Law and Citizenship Studies.*)

**B. Possible Benefits.** Law-Related Education is a component of the SRO program because it:

1. Promotes critical, analytical and problem-solving skills.
2. Actively involves students, teachers and the community.
3. Increases students' knowledge base of the law, making them better informed citizens and consumers.
4. Demonstrates constructive ways to resolve conflict and can reduce violence and discipline problems in schools.
5. Discourages delinquent behavior and encourages positive behavior.
6. Promotes positive self-image in students.
7. Encourages students to respect rules, laws, and persons in authority when exposed to a "balanced" view of "democratic" society.

**C. Process.** The approach consists of high-interest content and interactive instructional strategies designed to provide students at all levels the following opportunities:

1. To explore and reflect on theirs and others' perspectives,
2. To express and defend their views, to listen to the views of others,
3. To develop arguments for both sides of an issue, to mediate, and
4. To formulate decisions and resolutions based on multiple and often conflicting concerns.

In primary grades, students might consider a rule they don't like, explore why it was made, examine, the consequence for breaking it, and discover who acts as judge when the rule is broken. They might evaluate existing or hypothetical rules to determine whether or not they are clear, consistent, fair, and enforceable. They could listen to and analyze rules issues in stories and they could create and enforce their own set of classroom rules. Intermediate students might role-play as a law enforcement officer encountering a criminal dilemma. They might work in

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<sup>1</sup>Modified from "Law-Related Education and Violence Prevention: Making the Connection" By: Robin Haskell McBee

cooperative groups to offer solutions to problems that arise when a law is too general or vague. Older students might use the case study method of analysis to examine legal conflicts throughout history. Information from this exercise could then be applied to current dilemmas. Simulations of trials, known as mock trials or moot court, legislative hearings, constitutional conventions, police procedures, role playing, conflict resolution, mediation, formal and informal debate, cooperative group problem-solving, outside speakers, from the legal community typify LRE classes at all levels.

Because rules and laws affect all aspects of life, all subject areas, and all ages, the content of LRE can be as varied as the students and teacher need it to be. The methods, however, are characteristically open-ended and participatory in nature. Although some LRE instructional materials have been written for specific topics or age groups, there is no single way to teach LRE and no set LRE curriculum. LRE is most commonly used in social studies to promote civic understanding; however, it regularly incorporates the use of reading, writing, and speaking skills. It has the potential for application in literature, math, science, technology, foreign language, physical education, sports, and other subject areas. It need not be limited to a particular grade, subject, or time frame. The LRE approach to instruction is flexible enough to be applied as a system-wide, on-going prevention strategy, and an added benefit of such a strategy is the increased likelihood that students will better understand the rules, laws, and legal processes that govern their lives.

One of the cornerstones of LRE is the use of outside resources: school safety officers, attorneys, and other legal professionals. These resource people visit classrooms regularly, provide insight into how and why the system operates the way it does, and develops on-going positive, non-adversarial relationships with students in the class. Though typically not individualized as in mentoring, these relationships often hold meaning for the students and provide an opportunity for them to develop bonds or attachment with representatives of “the system.”

Another feature of LRE is its relevance. It deals with issues that are meaningful to students and their views are valued. LRE provides students the opportunity to get involved and participate. The crux of LRE is problem solving, both as part of a group process and on an individual basis. Social conflict lies at the heart of legal issues. Therefore, all LRE is some form of conflict resolution or problem solving.

The regular inclusion of LRE in the course of instruction will provide steady opportunities to develop and practice the information processing steps that must be developed in aggressive students if they are to acquire non-aggressive social problem solving skills. Further, the conflicts that characteristically surround rules and laws offer good practice in content that is hypothetical in nature yet directly related to students’ lives. While not a panacea for violence prevention, LRE offers a promising strategy for schools to implement as part of their overall prevention plan. If that plan includes closer work with parents and the community, LRE might also be incorporated into after-school programs, community center programs for children and adolescents, and parent programs. In this way the approach lends itself to a close interface with home and community.

## **WEBSITES**

Arizona Department of Education

[www.ade.az.gov](http://www.ade.az.gov)

Provides links to prevention sites, updates on funding opportunities and a calendar of conferences, trainings, and workshops.

Arizona Foundation for Legal Services and Education

<http://azflse.org/>

The site will provide up-to-date information about LRE research, links to other LRE related sites, professional development opportunities, publications, and articles.

Law For Kids

[www.lawforkids.org](http://www.lawforkids.org)

Posts youth laws and information in a manner that kids can read quickly and understand easily. Also kids can get homework answers, access other links, listen to other kids' stories, and play computer games.

Arizona Prevention Resource Center (APRC)

<http://www.azprevention.org/>

APRC is Arizona's central source for prevention information and materials. It has an expanded section of school safety materials. Materials may be checked out at no cost.

Join Together ONLINE

<http://www.drugfree.org/join-together>

National resource center to reduce substance abuse and gun violence. Offers up-to-date information on legislation, funding opportunities, Action Kits, and resources guides.

Keep Schools Safe

[www.keepschoolssafe.org](http://www.keepschoolssafe.org)

A collection of resources to help make schools safer.

National Association of School Resource Officers (NASRO)

[www.nasro.org](http://www.nasro.org)

Nonprofit training organization for district personnel and school resource officers. Sponsors an annual training conference as well as regional trainings. Lesson plans are available to download at no charge.

Arizona School Resource Officers Association (ASROA)

[www.asroa.org](http://www.asroa.org)

Nonprofit organization formed to promote law-related education. Sponsors an annual conference and various training opportunities.

National Dropout Prevention Center

[www.dropoutprevention.org](http://www.dropoutprevention.org)

Provides information on dropout prevention programs, educational strategies, technical assistance, training, and resources.

National Resource Center for Safe Schools

[www.nwrel.org](http://www.nwrel.org)

Center works with schools and communities to create safe learning environments and prevent school violence.

National School Safety Center

[www.nssc1.org](http://www.nssc1.org)

Clearinghouse for school safety information.

National Youth Gang Center

[www.iir.com/nygc](http://www.iir.com/nygc)

Provides information about gangs and effective responses to them.

Office of Juvenile Justice and Delinquency Prevention

[www.ojjdp.gov](http://www.ojjdp.gov)

Provides numerous links to juvenile justice-related resources, model programs and funding opportunities.

Constitutional Rights Foundation (CRF)

[www.crf-usa.org](http://www.crf-usa.org)

Offers programs and develops materials on law-related education. Web site contains ready-to-use lessons.

National Law-Related Education Resource Center (NLRC)

[www.abanet.org](http://www.abanet.org)

Facts on current model programs, curricula, print, and multimedia materials for all groups and age levels about the law.

Street Law, Inc.

[www.streetlaw.org](http://www.streetlaw.org)

Offers program training and program development in law-related education.



## CITY COUNCIL AGENDA

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**SUBJECT:**

Council Appointments to Regional and Local Boards, Commissions and Committees

**MEETING DATE:**

2/2/2015

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**TO:** Mayor and Council**FROM:** Pier Simeri, Community Relations Director (623) 333-1611**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

The Avondale City Council will consider appointments of the mayor and council to various regional and local boards and committees resulting from recent changes to the City Council. Council will evaluate current appointments and vacancies and make any necessary assignments to ensure the city is adequately represented.

**BACKGROUND:**

Regional and local representation on behalf of the City Council is beneficial to the City in maintaining a strong presence valley-wide. Serving on committees within the Maricopa Association of Governments (MAG), WESTMARC, the Arizona Municipal Water Users Association (AMWUA) and other regional organizations is paramount to the City staying abreast of regional initiatives. This allows the City of Avondale to maintain a regional presence and assures that the City's best interests are represented. In addition to the regional committees, there are local assignments that include the School District Ambassador Program and Council Subcommittees that also need to be filled.

**DISCUSSION:**

After the recent city election, there have been changes in the make up of the Council which has resulted in vacancies on various regional and local boards, commissions and committees. Staff will brief council regarding the current assignments and vacancies. Based on the information provided, Council will determine the appropriate representative to fill each of the vacancies and may make changes to current assignments as they deem appropriate.

**BUDGET IMPACT:**

There is no budgetary impact.

**RECOMMENDATION:**

The Council will determine the appropriate representation for each of the boards and committees.

**ATTACHMENTS:**

Description

[Listing of Boards, Commissions and Committees](#)

## Regional Boards, Committees and Councils - Mayor Weise

| Boards/Committees/Councils                            | Meeting Frequency                         |
|---|---|
| MAG Transportation Policy Comm.                       | Monthly (3 <sup>rd</sup> Wed – 12 pm)     |
| AZ Mayors Education Roundtable                        | Quarterly (varies)                        |
| MAG Regional Council                                  | Monthly (4 <sup>th</sup> Wed – 11:30 am)  |
| Greater Phoenix Economic Council - Board of Directors | Bi-Monthly                                |
| MAG Economic Development Council                      | Monthly (1 <sup>st</sup> Tues – 11:30 am) |

## Other Regional Boards, Committees and Councils

| Boards/Committee                          | Meeting Frequency                           | Representative                 |
|---|---|--------------------------------|
| Valley Metro RPTA Board of Directors      | Monthly                                     | CM McDonald – serving as Chair |
| AZ Municipal Water Users Assoc.           | Monthly (4 <sup>th</sup> Thurs – 11 am)     | CM Iwanski                     |
| GPEC - International Leadership Council   | Monthly                                     | VM Karlin                      |
| MAG Human Services Coordinating Comm.     | Quarterly (4 <sup>th</sup> Wed – 10 am)     | Vacant                         |
| SW Valley Chamber of Commerce BOD         | Monthly (2 <sup>nd</sup> Wed – 7:30 am)     | Vacant                         |
| Business Retention and Tourism            | Monthly (2 <sup>nd</sup> Tues – 1:00 pm)    | Vacant                         |
| Luke West Valley Council                  | Quarterly (3 <sup>rd</sup> Thurs – 8:30 am) | Vacant                         |
| Maricopa County Human Services Commission | Monthly                                     | Vacant                         |
| WESTMARC Board of Directors               | Modified Bi-monthly                         | Vacant                         |

## Avondale Boards, Committees and Councils

- Interfaith Council
  - Mayor Weise (currently)
  - Meets every other month
  - 3<sup>rd</sup> Tuesday at 8:00 am
  
- School District Ambassador Program
  - Agua Fria High School District – CM McDonald
  - Littleton Elementary School District – VM Karlin
  - Pendergast Elementary School District – CM Kilgore
  - Litchfield Elementary School District – Vacant
  - Avondale Elementary School District - Vacant
  - Tolleson Unified High School District – Vacant
  
- Council Subcommittees – Require 3 members on council for each
  - Boards and Commissions Subcommittee
  - Contributions Assistance Subcommittee