

**WORK SESSION
July 20, 2015
6:00 PM**

CALL TO ORDER BY MAYOR**1 ROLL CALL BY THE CITY CLERK****2. EXPECT MORE ARIZONA PRESENTATION**

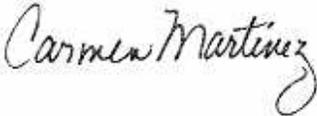
Ms. Donna Davis will provide information on Expect More Arizona and its efforts to support a world-class education for all Arizona students. The item is for information only.

3. WESTERN AVENUE SIDEWALK IMPROVEMENTS

City Council will review and provide feedback to staff regarding the design concept of the Western Avenue Sidewalk Improvement Project identified in the Capital Improvement Plan for FY15/16. For information, discussion and direction.

4 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 politica 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 puedan ejercitar su derecho si presentan su consentimiento por escrito a la Secretaria de la Ciudad, o pueden asegurarse que los niños no estén presentes durante la grabacion de la junta. Si hay algun menor de edad presente durante la grabacion, la Ciudad dara 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

SUBJECT:

Expect More Arizona Presentation

MEETING DATE:

7/20/2015

TO: Mayor and Council

FROM: Gina Montes, Assistant City Manager 623-333-1012

THROUGH: David Fitzhugh, City Manager

PURPOSE:

The purpose of this item is for Expect More Arizona staff to provide information on Expect More Arizona and its efforts to support a world-class education for all Arizona students.

BACKGROUND:

Expect More Arizona is a non-profit advocacy organization that exists to build statewide support a world-class education for all Arizona students. The organization aims to raise public awareness, educate, advocate and mobilize Arizonans to support education. Expect More Arizona has specific strategies and tools for all community members and is working in 30 communities across Arizona.

DISCUSSION:

Expect More Arizona was created in 2009 by a group of business and community leaders interested in establishing a public-private partnership to improve Arizona's education system – from early years through career – and creating a shared voice to support education as a top priority for our Arizona.

Staff from Expect More Arizona first presented to City Council in 2012 as part of Avondale's Community Dialogue on Education. Since that time, the City has partnered with the organization to provide workshops to the community and has worked with Expect More Arizona staff in our efforts to support education.

BUDGET IMPACT:

This item has no budgetary impact.

RECOMMENDATION:

This item is for information only.



CITY COUNCIL AGENDA

SUBJECT:

Western Avenue Sidewalk Improvements

MEETING DATE:

7/20/2015

TO: Mayor and Council

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

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff will provide an overview of the design concept for the Western Avenue Sidewalk Improvements and request feedback from the City Council.

BACKGROUND:

The adopted Historic Avondale Design and Development Guidelines (HADDG) identifies the need to strengthen Historic Avondale as a visually exciting area of the City that encourages residents to dine, shop, and socialize. Additionally, the guidelines seek to create a strong sense of place by preserving linkages to the past and allowing for new opportunities that assist in creating an identity for generations to come.

One identified opportunity in the guideline is to construct strategically placed pedestrian nodes, or small pocket park elements adjacent to the Western Avenue businesses to expand the sidewalk areas. Three pedestrian nodes have been identified that will significantly improve the aesthetics and pedestrian experience by providing unique, vibrant gathering spaces within the Historic Avondale District and help foster social interaction among pedestrians. These nodes include a variety of social seating opportunities, brick paving, preservation of existing street trees, brightly colored accent planters with new plant material, and the use of umbrellas where additional shade is necessary.

DISCUSSION:

The proposed concepts, generated by the consultant, J2 Engineering, were created using existing design elements throughout Western Avenue.

There were two meetings held with the Historic Avondale Merchants Association (HAMA). The first meeting was held on April 16, 2015 and the second on June 18, 2015. The presentation and discussion included topics such as the need to keep with the history of the area, make it an “Artsy” creative aesthetic design with bright permanent structures, umbrellas or awnings, incorporate traffic calming measures for pedestrian safety, include barriers from Western Avenue, and add street events to make it a unique sense of place.

The rendered concepts for the three nodes were presented at the second meeting with the association. The majority of the feedback received was very positive. The HAMA identified the need to minimize benches, remove lounge chairs, and relocate the trash receptacles closer to the pedestrian nodes. All changes to the three areas are reflected in the attached concepts.

BUDGET IMPACT:

Funds for the design and construction of the project are identified in the CIP line item 304-1335-00-8430 in the amount of \$200,000. Construction will begin in October of 2015.

RECOMMENDATION:

This item is presented for information and discussion. No action is required.

ATTACHMENTS:**Description**

[Western Avenue Renderings 7-2-15](#)

PRE-FABRICATED FIBERGLASS PLANTER

BAR STOOL TABLE AND SEATING W/ PERFORATED METAL SCREEN FENCE

RED BRICK PAVERS

CHECKERBOARD TABLE, TYP.

EXISTING TREE, TYP.

EXISTING METAL GRATE

CAST-IN PLACE CONCRETE BENCH/TABLE W/ TILE ACCENT

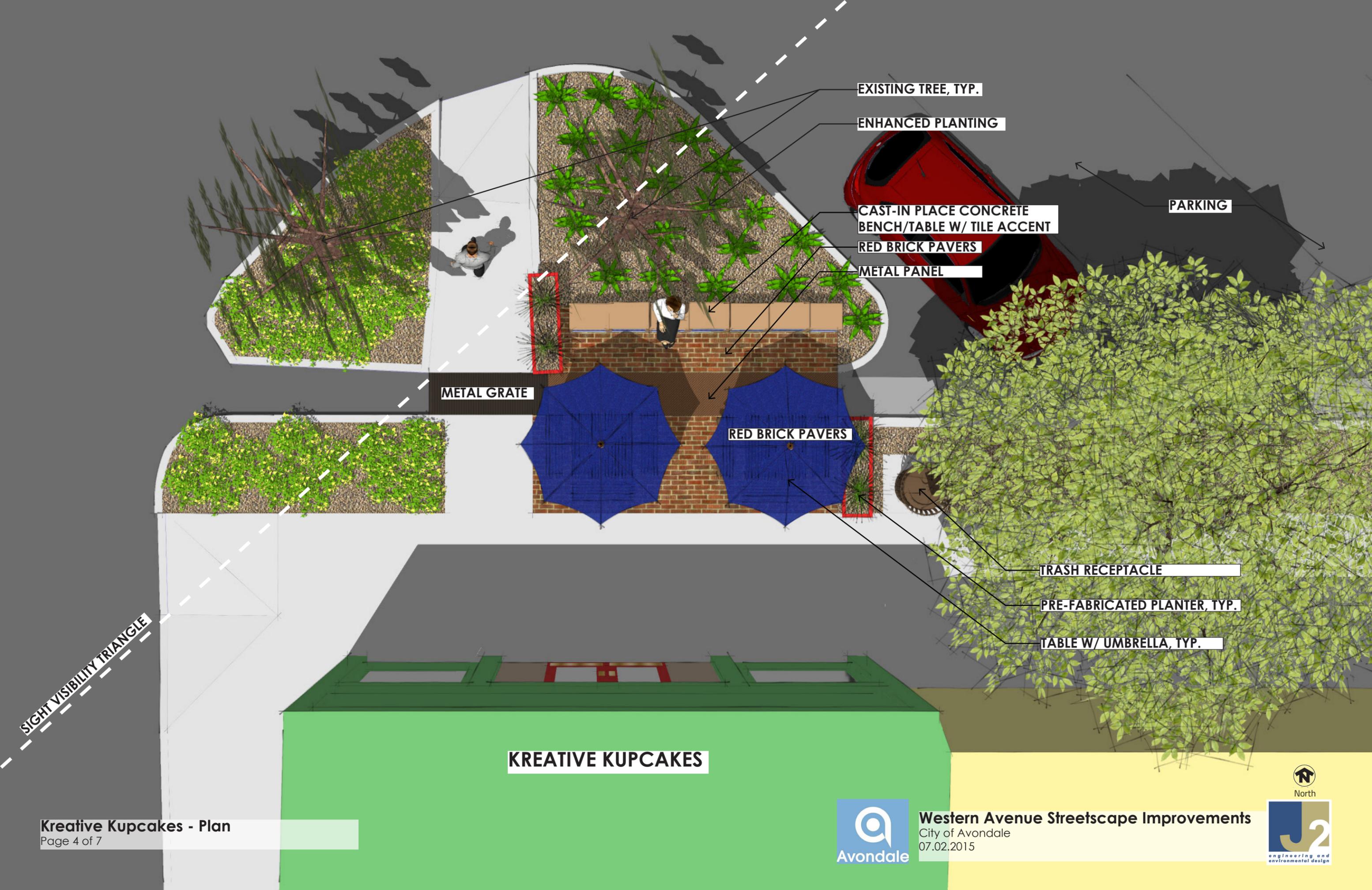
TRASH RECEPTACLE

METAL PANEL "WELCOME MAT", TYP.

SAM GARCIA LIBRARY







EXISTING TREE, TYP.

ENHANCED PLANTING

CAST-IN PLACE CONCRETE BENCH/TABLE W/ TILE ACCENT

RED BRICK PAVERS

METAL PANEL

PARKING

METAL GRATE

RED BRICK PAVERS

TRASH RECEPTACLE

PRE-FABRICATED PLANTER, TYP.

TABLE W/ UMBRELLA, TYP.

KREATIVE KUPCAKES

SIGHT VISIBILITY TRIANGLE



KEEPSAKE TROPHY

VACANT LOT

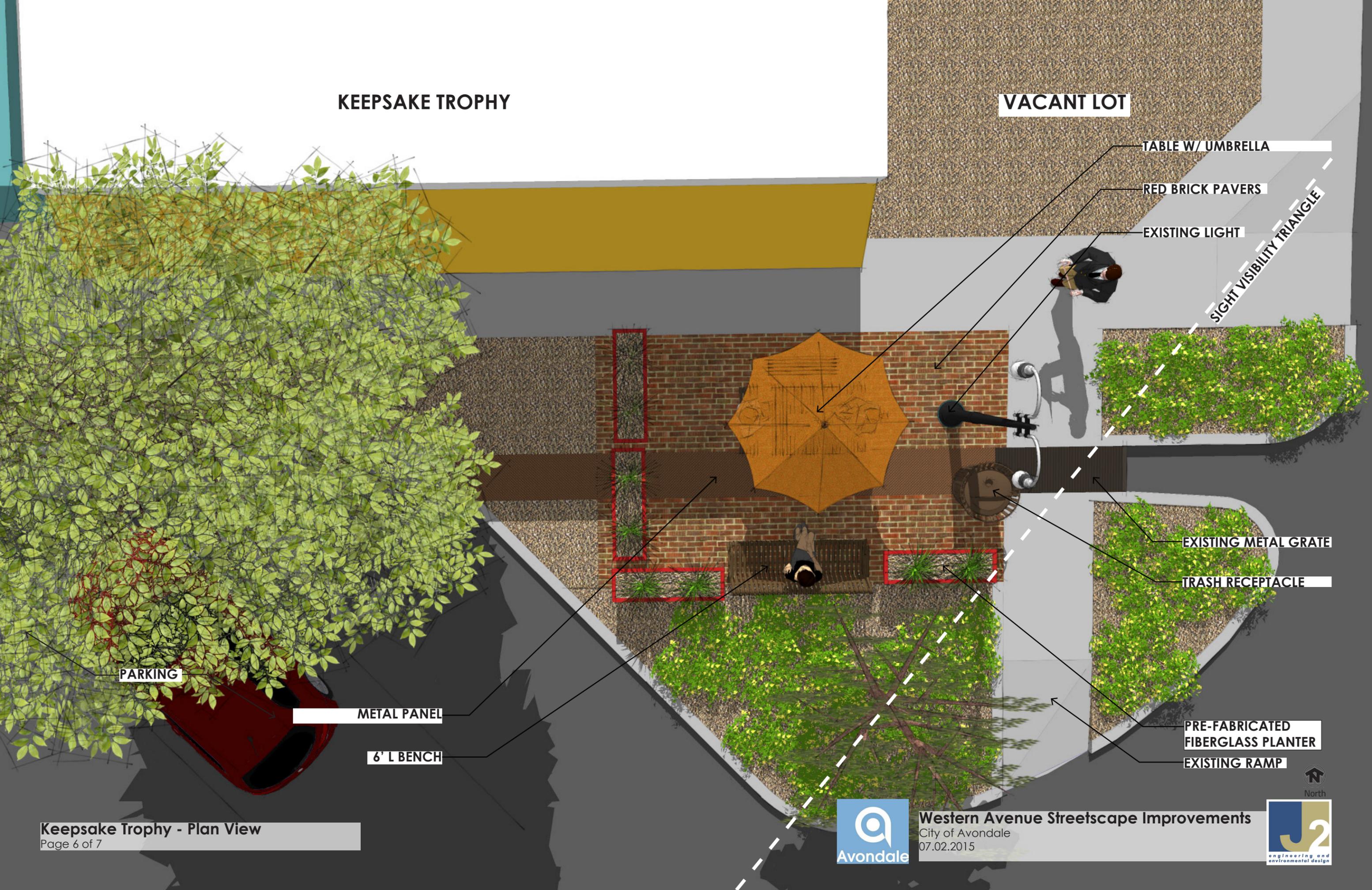


TABLE W/ UMBRELLA

RED BRICK PAVERS

EXISTING LIGHT

SIGHT VISIBILITY TRIANGLE

EXISTING METAL GRATE

TRASH RECEPTACLE

PRE-FABRICATED FIBERGLASS PLANTER

EXISTING RAMP

PARKING

METAL PANEL

6' L BENCH





CITY COUNCIL AGENDA

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

REGULAR MEETING
July 20, 2015
7:00 PM

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

Regular Meeting of July 6, 2015

b. MEETING RESCHEDULING - AUGUST 17, 2015

City Council will consider a request to reschedule the Regular Meeting of August 17, 2015, originally reschedule to August 10, 2015, back to August 17th at 6:00 pm instead of the usual time of 7:00 pm. The Council will take appropriate action.

c. LIQUOR LICENSE - PERSON AND LOCATION TRANSFER OF SERIES 7 (BEER AND WINE BAR) - WE OLIVE & WINE BAR

City Council will consider a request to approve an application submitted by Ms. Karen Joy Watson for a person and location transfer of a Series 7 (Beer and Wine Bar) liquor license to be used at We Olive & Wine Bar to be located at 1721 N. Dysart Road, Suite A101 in Avondale. The Council will take appropriate action.

d. CONTRIBUTIONS ASSISTANCE PROGRAM FY 2016 - FUNDING AMOUNT CORRECTIONS

City Council will consider a request to approve corrected funding amounts for the Contributions Assistance Program. The Council will take appropriate action.

e. THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT - DIBBLE & ASSOCIATES CONSULTING ENGINEERS

City Council will consider a request to approve the third amendment to the Professional Services Agreement with Dibble & Associates for the design of the Central Avenue water line project for an additional amount of \$11,370 for a total of \$266,505 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

f. PROFESSIONAL SERVICES AGREEMENT - CAPITALEDGE FOR FEDERAL LOBBYING SERVICES

City Council will consider a request to approve a contract in the amount not to exceed \$69,000 annually with CapitalEdge, a Washington, D.C. based advocacy firm, to represent Avondale in obtaining federal assistance to achieve the goals of Avondale's federal policy agenda and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the necessary documents. The Council will take the appropriate action.

g. ORDINANCE 1586-715- AUTHORIZING THE ACQUISITION OF PROPERTY OF PUBLIC USE - RIO VISTA

City Council will consider an ordinance accepting the dedication of waterline easements in the Rio Vista area to facilitate the construction of waterlines in the area, and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the appropriate documentation. City Council will take appropriate action.

4 PUBLIC HEARING AND ORDINANCE 1585-715 AMENDMENT TO PALM VALLEY-AVONDALE PLANNED AREA DEVELOPMENT (PAD) - APPLICATION PL-15-0076

City Council will hold a public hearing and consider a request by Mr. Ali Fakh, Sustainability Engineering Group, to adopt an Ordinance amending the Palm Valley-Avondale Planned Area Development, specific to Lot 3 of the Dysart Commons subdivision, located at the northeast corner of Dysart Road and Thomas Road. The Council will take appropriate action.

5 PUBLIC HEARING: CONDITIONAL USE PERMIT FOR FRYS FUEL CENTER (APPLICATION PL-15-0077)

City Council will hold a public hearing and consider a request by Mr. Ali Fakh, Sustainability Engineering Group, for approval of a Conditional Use Permit (CUP) for a Fry's Fuel Center gas station and convenience kiosk at the northeast corner of Dysart Road and Thomas Road. The Council will take appropriate action.

6 ADJOURNMENT

Respectfully submitted,



Carmen Martinez
City Clerk

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su consentimiento antes de que el Estado o cualquier otra entidad politica 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 puedan ejercitar su derecho si presentan su consentimiento por escrito a la Secretaria de la Ciudad, o pueden asegurarse que los ninos no sten presentes durante la grabacion de la junta. Si hay algun menor de edad presente durante la grabacion, la Ciudad dara 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

SUBJECT:

Meeting Rescheduling - August 17, 2015

MEETING DATE:

7/20/2015

TO: Mayor and Council

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

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff is recommending approval of a request to reschedule the Regular Meeting of August 17th, originally reschedule to August 10, 2015, back to August 17th at 6:00 pm instead of the usual time of 7:00 pm.

BACKGROUND:

According to the City's Charter, the City Council shall meet no less than two times per month. The Council Rules of Procedures set the regular meetings to be held on the first and third Monday of the month. The Rules of Procedure provide for the rescheduling of council meetings when the day of a regularly scheduled council meeting falls on a legal holiday or for another reason provided that a seven day notice is published in the newspaper.

DISCUSSION:

On November 17, 2014, Council approved the 2015 Council Meeting Schedule. As presented, the schedule included the rescheduling of the August 17th meeting in order to allow for an summer break.

City Administration and staff have been working with Municipal Solutions LLC to prepare the city's strategic plan. In order to complete the plan by the deadline, it is necessary for the Council to have a session with the consultants to establish priorities and give the council members an opportunity to better define their vision for the coming years. Scheduling of this session has been challenging, but in the end August 17th was determined to be the date that works best for everyone involved.

In order to allow ample time for the Council to accomplish what will be planned for that evening it will be necessary for the meeting to start at 6:00 pm instead. The meeting will be held in the Sonoran Room.

A notice will be published in the West Valley View on August 7th and 11th.

RECOMMENDATION:

Staff is recommending approval of a request to reschedule the Regular Meeting of August 17th, originally reschedule to August 10, 2015, back to August 17th at 6:00 pm instead of the usual time of 7:00 pm.



CITY COUNCIL AGENDA

SUBJECT:

Liquor License - Person and Location Transfer of
Series 7 (Beer and Wine Bar) - We Olive & Wine Bar

MEETING DATE:

7/20/2015

TO:

Mayor and Council

FROM:

Carmen Martinez, City Clerk (623) 333-1214

THROUGH:

David Fitzhugh, City Manager

PURPOSE:

Staff is recommending approval of an application submitted by Ms. Karen Joy Watson on behalf of Kenetix Enterprises, LLC for a person and location transfer of a Series 7 (Beer and Wine Bar) liquor license to be used at We Olive & Wine Bar to be located at 1721 N. Dysart Road, Suite A101 in Avondale.

DISCUSSION:

The City Clerks Department has received an application from Ms. Karen Joy Watson for a Person and Location transfer of a Series 7 (Beer and Wine Bar) liquor license to be used at We Olive & Wine Bar to be located at 1721 N. Dysart Road in Avondale. This retail establishment will have available for sale and tasting olive oil, wine, cheeses and other gourmet foods. The Series 7 (Beer and Wine Bar) will allow for the consumption as well as sale of wine in its original sealed container.

The fees in the amount of \$1,150 have been paid. As required by state law and city ordinance, the application was posted at the location for the required period of time beginning June 24, 2015. Notices were published in the West Valley View on July 13th and 17th. No comments have been received.

The Arizona Department of Liquor has accepted the submitted application as complete. The Police, Fire Development Services, and Finance Departments have reviewed the application and are recommending approval. Their comments are attached.

RECOMMENDATION:

Staff is recommending approval of the application submitted by Ms. Karen Joy Watson for a Person and Location Transfer of a Series 7 (Beer and Wine Bar) to be used at We Olive & Wine Bar to be located at 1721 N. Dysart Road, Suite A101 in Avondale.

ATTACHMENTS:**Description**

[Application and supporting documents - We Olive & Wine Bar](#)

SERIES 07 (BEER AND WINE BAR) LIQUOR LICENSE APPLICATION
– WE OLIVE & WINE BAR

DUE TO THEIR SIZE, THE FOLLOWING DOCUMENTS
HAVE BEEN POSTED SEPARATELY:

APPLICATION
DEPARTMENTAL REVIEW
POSTING PHOTOS
VICINITY MAP

PLEASE CLICK ON THE LINK BELOW TO VIEW

<http://www.avondale.org/DocumentCenter/View/36403>



CITY COUNCIL AGENDA

SUBJECT:

Contributions Assistance Program FY 2016 -
Funding Amount Corrections

MEETING DATE:

7/20/2015

TO: Mayor and Council

FROM: Stephanie Small, Neighborhood and Family Services Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff is requesting that City Council approve corrected funding amounts for the Contributions Assistance Program.

BACKGROUND:

On July 6, 2015, the City Council approved funding for the Contributions Assistance Program for FY2016. Unfortunately, the report presented to the City Council contained errors in the amounts recommended by the Council Subcommittee. The corrected amounts have been included below and are submitted for Council consideration.

DISCUSSION:

The subcommittee made the following funding recommendations. An asterisk denotes a funding amount that has been corrected to accurately reflect the recommendations made by the City Council subcommittee:

Mission of Mercy	\$8,000
St. Mary's Food Bank Alliance	\$6,500
Community Bridges, Inc.	\$8,000
Teen Lifeline	\$5,000*
Area Agency on Aging, Region One	\$2,500*
Central Arizona Shelter Services, Inc.	\$7,500
New Life Center	\$7,000
Alzheimer's Association Desert Southwest Chapter	\$3,500
Southwest Valley Literacy Association	\$2,842
A New Leaf, Inc.	\$7,000
Boys & Girls Clubs of Metropolitan Phoenix	\$4,000
Homeless Youth Connection	\$3,500
Taking Turns Toybrary	\$1,658
Kids at Hope	\$2,000
Technical Assistance Partnership of Arizona	\$1,500
Touchstone Behavioral Health	\$3,000
Empowerment Systems, Inc.	\$2,000

Southwest Human Development	\$1,500
Southwest Lending Closet	\$3,000

BUDGET IMPACT:

Funding for the Contributions Assistance Program is in the Non-departmental Fund 101-5300-00-6200.

RECOMMENDATION:

Staff recommends that City Council approve the corrected funding recommendation amounts that now accurately reflect the recommendations made by the City Council subcommittee for distribution from the Contributions Assistance Fund.



CITY COUNCIL AGENDA

SUBJECT:

Third Amendment to Professional Services Agreement - Dibble & Associates Consulting Engineers

MEETING DATE:

7/20/2015

TO: Mayor and Council**FROM:** Cindy Blackmore, Public Works Director, 623-333-4410**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is requesting that the City Council approve the third amendment to the Professional Services Agreement with Dibble & Associates for the design of the Central Avenue water line project in the amount of \$11,370 for a total of \$266,505 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

On June 3, 2013 City Council approved a Professional Services Agreement in the amount of \$232,030, with Dibble & Associates for the design of water and sewer improvements for Central Avenue and neighboring streets to bring the facilities up to standards and provide needed capacity for future buildout of the City in these areas. These improvements were also required in preparation for the street improvements to be completed in Central Avenue later this year. The 1st amendment was approved by the City Manager for \$4,975, to allow for design of unplanned improvements in the area that were best constructed with this project. The plans were bid and City Council awarded a construction contract on February 18, 2014. The water and sewer facilities have been successfully constructed and are currently operating.

DISCUSSION:

As the planned Central Avenue improvements will be narrowing the street, some of the water improvements could not be completed until the street improvements were constructed. These improvements included fire hydrants and large meter vaults. Staff worked with ADOT to permit the water improvements to be completed as part of that contract. The 2nd amendment in the amount of \$18,130 was approved by the City Manager to complete the design of these phased improvements and include them in the ADOT bid package. This work has been ongoing. ADOT's management consultants have required several changes to the documents to make them better fit with their bid requirements, and have made several separate requests for changes. This amount of work was not anticipated when the budget for the work was prepared. To complete the required work, a 3rd amendment in the amount of \$11,370 is requested.

BUDGET IMPACT:

Funding is available in Line Item 514-1057-00-8520, Citywide Water Improvements.

RECOMMENDATION:

Staff recommends that the City Council approve the Third Amendment to the Professional Services

Agreement with Dibble & Associates for the design of the Central Avenue water line project in the amount of \$11,370, for a total of \$266,505 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Description

[Third Amendment PSA - Dibble and Associates](#)

**THIRD AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.**

THIS THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "Third Amendment") is entered into as of July 20, 2015, between the City of Avondale, an Arizona municipal corporation (the "City"), and Dibble & Associates Consulting Engineers, Inc., an Arizona corporation (the "Consultant").

RECITALS

A. The City and the Consultant entered into a Professional Services Agreement, No. 13727, dated June 3, 2013, as amended by that certain First Amendment, dated April 30, 2014, and as amended by that certain Second Amendment, dated January 20, 2015 (collectively, the "Agreement"), for Consultant to provide design services for Central Avenue and Western Avenue sewer and water project.

B. The Arizona Department of Transportation's requested changes to the special provisions and construction plans for the project have necessitated additional design services by Consultant (the "Additional Services").

C. The City and the Consultant desire to enter into this Third Amendment to (i) modify the scope of work to include the Additional Services and (ii) increase the compensation to the Consultant for the Additional Services.

AGREEMENT

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

1. Scope of Work. Consultant shall provide the Additional Services as set forth in the Scope of Work, attached hereto as Exhibit 1 and incorporated herein by reference.

2. Compensation. The City shall increase the compensation to Consultant by \$11,370.00 for the Additional Services at the rates set forth in the Fee Proposal, attached hereto as part of Exhibit 1, resulting in an increase of the total compensation, from \$255,135.00 to an amount not to exceed \$266,505.00.

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

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

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

[SIGNATURES ON FOLLOWING PAGES]

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

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

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]

DIBBLE & ASSOCIATES
CONSULTING ENGINEERS, INC.,
an Arizona corporation

By: *Jason R Fort*

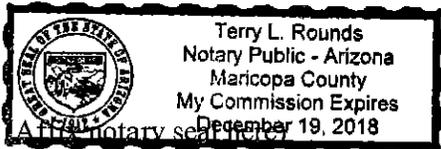
Name: *Jason R Fort*

Title: *Vice President*

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On *June 30th*, 2015, before me personally appeared *Jason R. Fort*, the *Vice President* of DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.



Terry L. Rounds
Notary Public

EXHIBIT 1
TO
THIRD AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.

[Scope of Work and Fee Proposal]

See following pages.



7500 North Dreamy Draw Drive
Suite 200
Phoenix, Arizona 85020
phone 602.957.1155
fax 602.957.2838
www.dibblecorp.com

June 17, 2015

Mr. Michael Smith, PE
City of Avondale
399 E. Lower Buckeye Road
Avondale, AZ 85323

Re: Central Ave and Western Ave Sewer and Water Main
Project No. PW 13-035
Third Amendment - ADOT Coordination

Dear Mr. Smith,

Dibble Engineering (Dibble) has completed the tasks as requested in the Second Amendment. Dibble had anticipated some coordination with the City of Avondale and ADOT to prepare the water improvements plans and technical specifications necessary for bid documents.

However, ADOT has requested changes to the special provisions and on the construction plans several times, much more than was originally estimated. Due to this extra design effort, additional funds are being requested to cover this unanticipated work. Significant coordination and design is required with the City's Engineering Project Manager, City's roadway consultant (Wood-Patel) and Arizona Department of Transportation (ADOT). The following engineering tasks are included in this Third Amendment:

Task 1: Stage V, 100% Submittal – Engineer will coordinate with roadway engineer and prepare Stage V, 100% submittal suitable for Arizona Department of Transportation (ADOT) review. Drawings will show all elements contained within the previous submittal as well as completed details. Engineer will prepare a tabulation of all comments received from the previous submittal along with preliminary and final resolution of comments. All approved comments will be incorporated into the construction document submittal.

Task 2: ADOT Special Provisions – Engineer will modify technical specifications to adhere to ADOT Special Provision requirements. Engineer will reformat the technical specifications and cross reference the bid schedule. This project is Federally funded, and therefore, ADOT requires three manufacturers for all equipment, including fire hydrants, valves, pipe material, and miscellaneous appurtenances, this information will be included in the ADOT special provisions.

Task 3: Plans, Specifications and Estimate (PS & E) Submittal – Engineer will coordinate with the City's Engineering Project Manager, City's roadway consultant and address ADOT's final comments on the 100% submittal. Engineer will prepare sealed construction documents that are suitable for public bidding. All approved comments will be incorporated into the PS & E submittal.

Dibble Engineering™

June 17, 2015

Mr. Michael Smith

Re: Central Ave and Western Ave Sewer and Water Main
Project No. PW 13-035
Third Amendment – ADOT Coordination

Page 2

Billing and Compensation

This extra design effort and the additional coordination effort that we are aware of at this time will be completed for a lump sum fee of \$11,370.

We appreciate this opportunity to be of service to the City, and we look forward to completing this important project.

Should you have any questions, please contact me.

Sincerely,

Dibble Engineering



Ezra M. Page, PE
Project Manager



CITY COUNCIL AGENDA

SUBJECT:

Professional Services Agreement - CapitalEdge
for Federal Lobbying Services

MEETING DATE:

7/20/2015

TO: Mayor and Council**FROM:** Jessica Blazina, Assistant Community Relations and Public Affairs Manager (623)
333-1612**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is seeking City Council approval of a contract with CapitalEdge, in an amount not to exceed \$69,000 annually, to represent Avondale in obtaining federal assistance to achieve the goals of Avondale's federal policy agenda and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the necessary documents.

BACKGROUND:

Avondale issued a Request for Proposal (RFP) in May, 2015, for federal advocacy services following the expiration of the original contract. Two firms responded to the RFP, and CapitalEdge scored the highest marks in the evaluation process. CapitalEdge is one of a few firms in Washington that provides services exclusively to local governments. CapitalEdge has a proven track record in securing federal funds, influencing legislation, negotiating relief from burdensome regulations, and identifying grant opportunities.

DISCUSSION:**Services**

Federal Program Development – CapitalEdge will visit Avondale at least once per year to discuss federal issues of interest with elected officials and City staff with the intention of developing a Federal Program for the coming year. The Federal Program will then serve as the basis for the City of Avondale's efforts throughout the year. As unanticipated issues arise, the Federal Program will be revised to address those challenges based upon their importance to the City.

Advocacy – On behalf of the City of Avondale, CapitalEdge will lobby Congress and the Executive Branch based on the established list of City priorities. CapitalEdge will assist with federal competitive grants processes in helping Avondale identify funding opportunities and address grant details.

National Organization Support – CapitalEdge will help facilitate Mayor and Council with their involvement regarding government membership organizations in Washington such as the National League of Cities (NLC) and U.S. Conference of Mayors (USCM).

Information Services – CapitalEdge will provide up-to-date information on their advocacy activities and timely information services regarding Congressional matters. CapitalEdge will provide weekly

reports and monthly reports that pertain to Congressional activities and their advocacy efforts on behalf of the City of Avondale.

BUDGET IMPACT:

If approved by Council, the CapitalEdge contract will be effective for one calendar year with up to four one year extensions beginning July 21, 2015 in an amount not to exceed \$69,000 per annum. Funds are included in FY 15/16 Community Relations Department, Intergovernmental Affairs Division adopted budget line item 101-5130-00-6180

RECOMMENDATION:

Staff recommends that the City Council approve a contract with CapitalEdge, in an annual amount not to exceed \$69,000, to represent Avondale in obtaining federal assistance to achieve the goals of Avondale's federal policy agenda and authorize the Mayor or City Manager, City Clerk, and City Attorney to execute the necessary documents.

ATTACHMENTS:

Description

[PSA - Capital Edge](#)

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITAL EDGE ADVOCACY INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of July 20, 2015, between the City of Avondale, an Arizona municipal corporation (the “City”), and Capital Edge Advocacy Inc., a Washington, D.C. corporation (the “Consultant”).

RECITALS

A. The City issued a Request for Proposals, CR 15-048 “Federal Lobbyist and Information Services” (the “RFP”), a copy of which is on file in the City’s Finance Office and incorporated herein by reference, seeking proposals from vendors for federal governmental relations and information consulting services (the “Services”).

B. The Consultant responded to the RFP by submitting a proposal (the “Proposal”), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July 19, 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 four successive one-year terms (each, a “Renewal Term”) if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, the Consultant 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 Consultant’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 Consultant, 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. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit B and incorporated herein by reference.

3. Compensation. The City shall pay Consultant for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed \$69,000.00 for the Services at the rates set forth in the Fee Proposal, attached hereto as Exhibit C and incorporated herein by reference. The maximum aggregate amount for this Agreement, including all Renewal Terms, shall not exceed \$345,000.00.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

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. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire City residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel 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 Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

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

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

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for,

from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

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

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

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

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

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

F. 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 Consultant. Consultant 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. Consultant 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, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant’s insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant’s responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received

without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

(2) Consultant’s insurance shall be primary insurance 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 Consultant 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. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured

under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

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

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

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

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or 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 Consultant of written notice by the City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to 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 City to the Consultant 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 Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

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 consultant 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 Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is 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 Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this

Agreement in any budget in any fiscal year other than the fiscal year in which the Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

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

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. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible 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 Consultant.

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 Consultant without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

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

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 Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

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 Consultant any amounts Consultant owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

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

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 Consultant: Capital Edge Advocacy Inc.
1212 New York Avenue, NW, Suite 250
Washington, DC 20005
Attn: Christopher F. Giglio

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 Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its

obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

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

13.18 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Consultant's Proposal, 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.

13.20 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions (“Eligible Procurement Unit(s)”) are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[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
CAPITAL EDGE ADVOCACY INC.

[Consultant's Proposal]

See following pages.

**RESPONSE TO
REQUEST FOR PROPOSALS
CR 15-048**

**FEDERAL LOBBYIST
AND
INFORMATION SERVICES**

**FOR THE
CITY OF
AVONDALE, ARIZONA**

**Capital Edge Advocacy Inc.
Washington, DC
June 9, 2015**



June 9, 2015

City Clerk
11465 West Civic Center Drive
Suite 200
Avondale, AZ 85323

To Whom It May Concern:

On behalf of Capital Edge Advocacy Inc., I am pleased to submit the enclosed response to the Request for Proposals (CR 15-048) for Federal Lobbyist and Information Services for the City of Avondale.

Capital Edge has been providing federal advocacy and information services to the City of Avondale since 2009, and we continue to believe we are uniquely qualified to provide high levels of personalized services to the City. Our firm was founded with the goal of providing cost-effective federal representation exclusively to local governments and over 20 years later, we are one of the few organizations in the nation's capital that can continue to make that claim.

In addition, we offer the City many years of experience with the Arizona congressional delegation, a deep knowledge of federal legislation and programs that can impact Avondale, and strong familiarity with the challenges and opportunities facing communities in the West Valley and the greater Phoenix metropolitan area.

It remains a particularly critical time for communities such as Avondale to have an everyday presence in Washington, DC. Federal deficit reduction efforts over the last several years have forced Congress to make very difficult budget decisions, and it is important to stress the importance of maintaining vital programs in areas such as housing, law enforcement, infrastructure, and community and economic development.

We also expect there to be additional attempts by the federal government to intrude on local authority in areas such as taxation, zoning, and permitting. Educating the congressional delegation on the specific impacts on the City has proven to be an effective response to such actions, and Avondale has a history of providing these timely updates in a successful manner.

Thank you for the opportunity to submit this response to the RFP and feel free to contact me directly with any questions about it at giglio@capitaledge.com. We would be honored to continue our relationship with the City of Avondale, and enjoy working with its dedicated elected leadership and fine staff.

Sincerely,

Christopher F. Giglio
President

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Section 1: General Information

Legal Name: **CapitalEdge Advocacy Inc.**
Address: **1212 New York Avenue, NW, Suite 250**
Washington, DC 20005

ID Number: **45-5281797**
Legal Form: **Corporation**

Contact: **Christopher F. Giglio, President**
1212 New York Avenue, NW, Suite 250
Washington, DC 20005
(202) 842-4930
giglio@capitaledge.com

The principle office for CapitalEdge is located at the downtown Washington, DC address above, and the firm does not maintain a physical presence in the state of Arizona. However, we are registered with the Arizona Corporation Commission to conduct business in Arizona (File Number F19174470). A Certificate of Good Standing with the ACC is included in this response.

CapitalEdge provides federal advocacy and information services to local governments and local government agencies. We provide services to those entities exclusively and do not have any clients from areas outside the local government universe.

CapitalEdge President Christopher F. Giglio has been performing federal advocacy and information services for local governments and their agencies since 1990. CapitalEdge, which was once known as Carolyn C. Chaney & Associates, has existed as an organization since 1995.

CapitalEdge prides itself on the long-standing relationships we have established with our clients, some of whom have been with us for over 30 years. In the last five years, two contracts with CapitalEdge have been terminated.

The City of Lincoln, Nebraska – for whom we had provided services since 1979 – cited financial constraints as the reason for not renewing in 2011. The City of Lake Oswego, Oregon had hired CapitalEdge for assistance with securing federal assistance for a streetcar project to connect to downtown Portland. In 2011, electoral changes resulted in a majority of the City Council opposing the streetcar project and it was dropped. As a result, our services were no longer needed.

In both cases, neither community has engaged federal representation since.

CapitalEdge has never been part of litigation or arbitration with regard to a contract, and as a result, no claims have arisen in the last five years.

Section 2: CapitalEdge Experience and Qualifications

CapitalEdge has a strong belief that the legislative and regulatory environment is sufficiently challenging that communities such as Avondale benefit from an everyday presence in Washington, DC. Due to the fact that communities of that size do not have the economies of scale of larger entities, we have spent the majority of our professional lives dedicated to providing advocacy services that are highly specialized and cost-effective.

Some unique aspects of CapitalEdge:

- We are one of the few firms in Washington that provides services *exclusively to local governments* and their agencies. We spend all day, every day working on the distinctive issues of importance to municipalities.
- We have a strong record of legislative and regulatory achievements on behalf of our clients that stretch almost 30 years.
- We have established significant long-term relationships with our clients that are based on providing timely, effective, and personalized service. As a result, our clients enjoy an uninterrupted, non-partisan presence in Washington.

▪ **Track Record on Behalf of Our Clients**

Over the years, the principals at CapitalEdge have established a very successful track record in securing federal funds, influencing legislation, negotiating relief from burdensome regulations, locating grant opportunities, and maximizing client profiles in Washington. While each of our clients have unique needs and priorities, the basis of our work on their behalf is similar. Developing a strong relationship with the congressional delegation of each community, immersing ourselves in legislation that may have an effect on our clients, and seeking grant opportunities over a wide range of areas are some of the skills that we have perfected over the years and benefit our clients across-the-board.

That track record includes over 20 years of providing services to communities in the Phoenix area. Prior to joining the City of Avondale in 2009, Capital Edge worked on behalf of the City of Scottsdale in Washington for almost 17 years. We believe this experience has given us a unique perspective into the Arizona congressional delegation and matters pertaining to the Valley. In addition to items pertaining strictly to Avondale and Scottsdale, we have also been involved in regional matters with other area local governments and tribes in the East and West Valley, organizations such as Valley Metro/RPTA, the Central Arizona Project, the Salt River Project, and the Arizona Municipal Water Users Association.

Our accomplishments on behalf of our clients are wide-ranging, spanning a multitude of legislative, regulatory, and grant-related success. In the past, some of that success

involved assisting communities and their congressional delegations in securing congressionally-directed spending – otherwise known as earmarks – for specific local projects. However, in recent years, Congress has imposed a moratorium on earmarks. While we stand ready to participate and advocate for that process to return, there continue to be important ways in which communities such as Avondale engage with the federal government. Some recent examples on behalf of our clients include:

Legislative Solutions

A CapitalEdge client recently received approximately \$50 million in revenues from the discovery of natural gas reserves on the grounds of its municipal airport. However, at the time, federal law required that if an airport had ever accepted federal funding for airport improvements, any revenues from mineral rights could only be spent on the airport property. It would have been impossible, and wasteful, for the City to spend such sums on a single strip airport with no commercial service and no prospects for growth.

CapitalEdge worked with the City and its congressional delegation to include a provision in the 2012 Federal Aviation Administration reauthorization bill that created a process for the FAA to consider using such revenues on transportation projects within the community but outside airport property. The provisions were crafted so as to not violate the congressional earmark ban, and the program continues to apply to any eligible General Aviation Airport.

Regulatory Relief

Following each decennial census, the Census Bureau and Department of Commerce reclassify urbanized areas (UZAs) throughout the country based on the new information. Growth in the Phoenix metropolitan area from 2000-2010 was likely to result in the City of Avondale losing its status as its own UZA and being included in the metropolitan Phoenix UZA. Such a change would have had a significant impact on transit service in Avondale, as UZAs with populations over 200,000 are prohibited from using federal transit funds on operating expenses, while UZAs (such as Avondale) serving populations below 200,000 may use funds for that purpose.

CapitalEdge worked with the City's congressional delegation and other communities that would be affected by these changes to educate the Department of Commerce on the impacts. Ultimately, Commerce was convinced to not update the UZA designations from the 2000 Census, which allowed over \$2 million in annual transit funds to be used for operating bus routes in Avondale at least through 2020.

Grants Assistance

During the recession, a CapitalEdge client was struggling to keep up its fire services in the face of declining revenues. Drought conditions and proximity to extensive federal lands made it particularly important for the City to maintain its services but like many communities during that time, layoffs were necessary.

CapitalEdge worked with the City's congressional delegation and Department of Homeland Security in support of two applications to the FEMA firefighter hiring

program known as “SAFER.” The successful effort allowed the City to avoid the layoff of or rehire over 60 firefighters.

Coalition Building

CapitalEdge was instrumental in the formation of a coalition of public transit agencies serving “small urbanized areas” (between 50,000 and 200,000 population) that resulted in the successful creation of a new program in the 2005 transportation law (SAFETEA-LU).

The Small Transit Intensive Cities (STIC) program provides additional transit formula funding to communities that have demonstrated a strong local commitment and resources to public transit. The effort was designed to rectify a gap in the federal funding formula for smaller urbanized areas, which receive federal funding through a formula based on population and not levels of service like their larger counterparts.

Since its inception in 2006, the STIC program has benefitted more than 160 communities in 45 states and Puerto Rico.

▪ **Current CapitalEdge Clients**

The CapitalEdge client list consists only of local governments and their agencies. It is the constituency we know best and we have no plans to deviate from this course. We are currently providing services to:

- City of Arlington, Texas
- City of Austin, Texas
- City of Avondale, Arizona
- City of Beaumont, Texas
- City of Columbia, South Carolina
- City of Dallas, Texas
- City of Denton, Texas
- City of Henderson, Nevada
- City of Huntsville, Alabama
- City of Pasadena, California
- City of Reno, Nevada
- City of Sumter, South Carolina
- City of Santa Cruz, California
- Denton County (TX) Transportation Authority
- Santa Cruz County, California
- Santa Cruz (CA) Metropolitan Transit District
- Santa Cruz County (CA) Regional Transportation Commission

▪ **References**

City of Beaumont

Kyle Hayes
City Manager
P.O. Box 3827
Beaumont, TX 77704
(409) 880-3770
khayes@ci.beaumont.tx.us

Services Provided: Federal Advocacy and Information Services
Client Since: 1981

City of Pasadena

Julie Gutierrez
Assistant City Manager
100 N. Garfield Ave., Room 231
Pasadena, California 91109
(626) 744-7371
jgutierrez@cityofpasadena.net

Services Provided: Federal Advocacy and Information Services
Client Since: 1981

City of Reno

Maureen McKissick
Assistant to the City Manager
P.O. Box 1900
Reno, NV 89505
(775) 334-2253
mckissickm@ci.reno.nv.us

Services Provided: Federal Advocacy and Information Services
Client Since: 1999

We would be pleased to provide additional information or references upon request.

Section 3: Key Positions

The following CapitalEdge staff would be available to Avondale officials and assigned to advocate the priorities of Avondale.

- **Christopher F. Giglio, President and Managing Principal**

Chris has an extensive history working with local governments, having worked with CapitalEdge clients since its inception in 1995. For the five years previous to that, he served as an Assistant City Representative at the National Center for Municipal Development (NCMD). NCMD was created of the U.S. Conference of Mayors and National League of Cities to serve communities who were in need of more specialized federal advocacy and information services than those membership organizations provide.

In addition, Chris has worked on Capitol Hill as a staff member for a member of the U.S. House of Representatives and the U.S. Senate Committee on Foreign Relations. Chris holds a B.A. in Political Science from Williams College in Massachusetts.

Chris has served as the main point of contact for Avondale at CapitalEdge since 2009 and would remain in that position in this proposal. He would be available and responsible for all aspects of the services that will be provided to the City.

The following CapitalEdge staff is also available to provide services to the City and would provide assistance under Chris' direction:

- **Ralph Garboushian, Managing Principal**

Ralph joined CapitalEdge in 1995, and in the years that he has worked for local governments in Washington, his interests have varied broadly. He prides himself on actually reading nearly every piece of major local government legislation passed during his tenure, and he has developed special expertise in transportation. Ralph holds a M.A. in Political Science from Syracuse University in New York and a B.A. from Skidmore College in New York, where he was elected to Phi Beta Kappa.

- **Joy Grewatz, Legislative Associate**

Joy Grewatz joined CapitalEdge in 2010 where she has distinguished herself as a policy expert on issues relating to homeland security and defense. Joy has also worked as a legislative coordinator for the City of Dallas, where she assisted with the City's interests before the Texas legislature and Congress. Joy received her MPA from the University of North Texas and a B.A. in Political Science from the University of Texas at Arlington.

- **Amy Jo Jacobsen, Legislative Associate**

Amy Jo has been with CapitalEdge since 2008 and is responsible for researching and coordinating federal grant opportunities, tracking federal legislation, and handles client scheduling requests at CapitalEdge. Amy Jo has also worked with the Iowa Office of the Attorney General and the United States Senate. She holds a B.A. in Corporate Communication and Political Science from Simpson College in Iowa.

Section 4: Proposed Services to the City of Avondale

1. Federal Program Development

Since 2009, CapitalEdge staff has visited Avondale at least once a year in order to discuss federal issues of interest with elected officials and City staff with the intention of developing a Federal Program for the coming year. The visits also have included CapitalEdge staff updating the City Council on federal matters in a public City Council meeting or work session and usually include visits to Avondale neighborhoods to receive first hand updates on projects and priorities.

Following these visits, we assist City officials with the development of an annual Federal Program for the City based on the information acquired during the visit. This plan involves projects on the local level that would benefit from federal assistance (legislatively or through grants), legislative issues we anticipate the City would take a position on throughout the year, and policy on Executive Branch actions like proposed regulations at federal agencies that might affect Avondale.

Certainly, unanticipated issues have come up after the visit, and through frequent contact with City staff, we address them in an effective and efficient fashion.

2. Advice and Advocacy on the City's Behalf

Early each year, we begin the process of advocating Avondale priorities with both Congress and the Executive Branch. Over time, we have developed relationships with the offices of Senators McCain and Flake and Rep. Grijalva, which we believe is a crucial element in this process. With direct federal assistance to local governments declining in recent years as Congress focuses on deficit reduction, it is extremely important that the City's congressional delegation be unified (and heard) in support of local priority projects in what has become an extremely competitive atmosphere.

- Avondale was struggling to secure the support of the congressional delegation for its annual appropriations requests (earmarks). In response, CapitalEdge worked with Rep. Grijalva's office to make requests that would benefit the City in accounts not traditionally oversubscribed by other entities throughout the state. As a result, the congressman secured \$300,000 in the House version of a spending bill to develop a City small business loan fund through the Small Business Administration budget. Unfortunately, the story did not have a happy ending, as Congress eliminated earmarks prior to final approval of the budget that year under political pressure, and annual moratoriums on the practiced followed. However, the story is an example of CapitalEdge working in a strategic manner with the congressional delegation in order to best assist Avondale.

We have also provided the City with detailed background on a variety of federal issues so that the City can develop an informed decision in response to any inquiries while advocating their position. While we provide advice, information, and assistance, we have found in most cases that city officials are their own best lobbyists, and a well-timed, well-

informed visit or telephone call from the Mayor or members of the City Council – coordinated through the Intergovernmental Affairs Manager – can make the difference in the success of a project.

- When the City learned that a Department of Housing and Urban Development audit of a contractor hired to administer Avondale’s allocation under the HUD Neighborhood Stabilization Program recommended that the City pay back a significant portion of that allocation, CapitalEdge worked to educate HUD on the benefits that the project brought to the City while also impressing upon the agency that such punishments would only serve to hurt the Avondale residents that its programs are designed to protect. By mobilizing the Mayor and other city officials for meetings, letters, and phone calls with federal officials, the City was able to come to a mutually beneficial agreement that saved the City significant funds.
- It was determined that the toxic plume from the Superfund site at the Phoenix-Goodyear Airport North was moving in a direction that would threaten City of Avondale drinking water wells. CapitalEdge worked successfully with the City’s congressional delegation, city officials, and the Environmental Protection Agency to encourage the “responsible party” for the cleanup to install additional monitoring wells in the areas around City wells to safeguard the city’s water supply.

There are several instances throughout the year when it is necessary for the City to react quickly to legislation that is unexpectedly addressed in Congress. We anticipate these situations and assist the City in drafting letters and contacting the congressional delegation to advise them of the City’s position prior to the vote.

- Passage of legislation to allow local governments to require online retailers to collect local sales taxes on remote purchases has been a priority of the City for the last few years. When the Senate scheduled a relatively fast vote on the measure, known as the Marketplace Fairness Act, bypassing committee consideration, CapitalEdge worked with city officials to educate the Arizona Senators on the benefits of the legislation to the state and the Avondale community. The bill was approved overwhelmingly (although it has not yet been considered by the House).

3. Federal Information Services

The backbone of almost every successful lobbying effort includes the flow of accurate and timely information on the subject of interest. It is for this reason that we consider our federal information services as important as the advocacy services that we provide.

In coordinating support for Avondale projects in Washington, we look to provide all the involved parties with as much information on a project as possible in a timely manner. This includes drafting letters of support from key City officials, talking points for the City official who is promoting the project, and the current status of the legislation or regulation that is of interest. We pride ourselves on our accessibility to our clients.

We also use all of the available resources, electronic and otherwise, to obtain the latest information from Congress and the Executive Branch. These resources include legislation, committee reports, hearing testimony, rules, regulations, and grant notices.

Rather than simply passing this information along to Avondale with little or no explanation, we look to present it to City officials in a form that is timely and brief, informative and coherent, and provides recommended courses of action. Periodic email and telephone communication with Avondale city staff is the favored vehicle for such transmittals. In addition, our *Washington Report*, which we send to the City each week Congress is in session, outlines federal actions that may have an impact on the City.

Meetings such as the annual National League of Cities Legislative Conference in Washington also provides CapitalEdge the opportunity to update Avondale officials on federal activities and annual visits to Avondale often include presentations to the City Council in public meetings or work sessions.

CapitalEdge is committed to providing Avondale with all of the information it needs to make informed decisions regarding federal policies. In order to present that information in the manner that work best for the City, we encourage and enjoy frequent communication with City officials.

4. Support for City Officials Traveling on Federal Business

CapitalEdge works to make Avondale visits to Washington, DC as effortless and as productive as possible. We participate in all aspects of the planning process, including suggesting and making appointments with pertinent officials, providing background materials and talking points, itineraries, and strategies in preparation for the meetings, as well as logistical assistance with navigating around Washington.

CapitalEdge offices would also double as a Washington Office for the City of Avondale. Located in downtown Washington, blocks from the White House and minutes from the Capitol, we provide a fully-equipped office that is available for use whenever Avondale officials are in Washington. The office has telephone, fax, copying, word processing, and Internet services, as well as a conference room and office services staff that may be used by Avondale officials.

- An important aspect of Avondale visits to Washington is that they are scheduled at appropriate times in order to make the best use of City resources. There have been instances where we have recommended that Avondale officials *not* make a trip to Washington, for a variety of reasons. Keeping track of the congressional schedule, having a daily feel of the political mood in Washington, and knowing whether the proper officials will be amenable to the City's argument all factor into these decisions.

Equally important to these visits by Avondale officials is the follow-up with pertinent federal officials. CapitalEdge works with congressional staff and federal agency officials after a visit to provide them with the tools they need to successfully advocate on behalf of

the City. In a situation such as the NLC conference, where so many communities are in Washington making their case at one time, such follow-up ensures that Avondale priorities are not lost among the many requests these offices receive.

5. Performance Reports

As mentioned above in the “Federal Information Services” section, we use several vehicles to keep Avondale up-to-date on our activities on your behalf, as well as providing you with timely and pertinent updates regarding matters in Washington.

These include the *Washington Report*, sent to the City each week Congress is in session. It covers events, activities, legislation, rulemakings, and funding opportunities in Congress and the Executive Branch that may be of interest to Avondale and local governments in general.

In addition to an annual in-person visit to brief the City Council and city staff, CapitalEdge works with the Assistant Director of Community Relations and Public Affairs on the federal items that are part of periodic intergovernmental affairs reports to the City Council.

In the same spirit of supporting the frequent flow of information to the city, CapitalEdge is pleased to provide any updates or reports that the City requires, whether they are formally included in the agreement or determined to be useful at a later date.

6. National Organization Support

CapitalEdge staff has long-standing relationships with the main local government membership organizations in Washington, the National League of Cities (NLC) and U.S. Conference of Mayors (USCM). Numerous clients have served in leadership positions of the organizations, and we attend both their legislative conferences and annual meetings each year. In addition, we have developed strong relationships with the staff for both groups, and they often call on us to provide them with input, support, or information on an issue.

- CapitalEdge played an active role both in former Mayor Marie Lopez Rogers’ campaign for a leadership position at NLC and her three-year tenure in the leadership of the organization. Since Mayor Rogers frequently insisted that her work on behalf of NLC -- particularly when she was in Washington -- include Avondale interests, we spent considerable amounts of time assisting with scheduling and briefing while also assisting City staff in serving as a liaison with NLC staff.
- The benefits of Mayor Rogers Presidency at NLC were tangible, as City priorities such as the Marketplace Fairness Act, protection of the tax-exempt status of municipal bonds, transportation reauthorization, and immigration reform were and remain top priorities of the organization. And her position was certainly of assistance in negotiations with HUD over the NSP program audit mentioned above, as it significantly improved access to high levels of the Obama Administration.

Each year at the NLC legislative conference in March, in coordination with Avondale City staff, we arrange and manage a comprehensive schedule for Avondale officials in attendance. This includes assisting in preparing briefing papers on federal priorities; arranging meetings with the City's congressional delegation and pertinent federal agencies, and monitoring sessions at the conference that others may be interested in but not able to attend.

On the staff level, we attend periodic meetings of Washington Representatives of local governments hosted by USCM, NLC, and the American Public Transportation Association, where common issues and strategies are discussed.

7. Staff Qualifications

CapitalEdge staff has always worked to provide the highest level of service to our clients, beginning with prompt and informative response to inquiries. And while someone will always be available by various means of communication, it is also our goal to anticipate those inquiries, and provide assistance in a proactive manner. We have a history of effective communication with our clients at all levels, from elected officials to city staff and can tailor our message in a manner that is of the most help to our audience.

We believe this proposal demonstrates our familiarity and expertise with a number of issues that are of interest to the City of Avondale. Transportation issues have been a primary focus of our work for many years. We have a deep knowledge of the transportation challenges in the Valley, and a track record of securing federal funding for both road and transit projects. Local governments such as Avondale have been leaders on environmental issues long before the federal government, and our advocacy record over the years in that area is strong and includes pressing for increased funding for the federal Land and Water Conservation Fund, for example.

Housing and neighborhood services are so important to the Avondale community and have been a focus for CapitalEdge many years. We have been strong proponents for the Community Development Block Grant Program at HUD and have been active participants in coalitions to increase funding and protect the program from damaging changes. We also work to educate Congress and federal agencies about the importance of local control in these areas and promote the idea that Avondale leaders are best equipped to serve the needs of their residents rather than then one-size-fits-all approach taken by Washington.

As communities such as Avondale continue to deal with issues related the Great Recession, CapitalEdge continues to work to ensure that the federal government recognizes the challenges local governments face.

During the debate over the American Recovery and Reinvestment Act, CapitalEdge worked with local government organizations to ensure that a sufficient portion of the funding would be allocated directly to communities such as Avondale (early versions of the legislation sent all the money to states). Once the Recovery Act became law, we quickly informed our clients of the opportunities and restrictions that came with receipt

of those funds so that they would be able to take advantage of the pertinent programs of the legislation.

In recent years, as Congress has focused on deficit reduction at the expense of many domestic discretionary programs, we have worked to protect important programs from severe cuts and elimination. These include the aforementioned CDBG program, and agencies such as the Economic Development Administration at the Department of Commerce.

- Our deep experience with local government allows us not only to be available to discuss federal matters with Avondale officials at their convenience and effectively advocate for the City on the federal level, but also to provide advice and guidance to the City based on similar experiences with like-minded communities. At this time in our careers, there are few federal agencies with which we have not worked, and even fewer situations in city government that we have not seen or been involved in with regard to Federal policy.

Additional Benefits to Avondale

In addition to the services related to the Scope of Work in the RFP, we also wanted to highlight some of the additional benefits we provide to Avondale.

- **Operating in a Bipartisan Manner/Building Coalitions**

We have a long history of developing broad-based, bipartisan coalitions on behalf of priority projects. We pride ourselves in serving as a trusted and effective liaison between elected officials of differing political parties who have a common goal of serving their constituents. We have served communities and dealt with congressional delegations covering the entire political spectrum. CapitalEdge also uses this same idea to create and participate in coalitions that assist in forwarding the federal agendas of our clients.

We also have been active in efforts with Washington representatives of Arizona cities and other entities regarding common interests such as:

- ✓ Responding to efforts to alter the formula for the Community Development Block Grant Program to the detriment of a number of Arizona communities.
- ✓ Advocating for changes to the Low Income Home Energy Assistance Program (LIHEAP) to make it more responsive to the needs of warm-weather areas.
- ✓ Working with representatives of both Arizona and Nevada stakeholders on the development of the proposed I-11 transportation corridor.
- ✓ Opposing efforts in Congress to rescind federal funding for the HUD NSP-3 program, which allocated over \$1.2 million to Avondale.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITAL EDGE ADVOCACY INC.

[Scope of Work]

See following pages.

SCOPE OF WORK

Federal Lobbyist and Information Services CR 15-048

Consultant shall act as the Washington Assistant/Representative for the City and perform, at a **MINIMUM**, the following required Services:

1. Federal Program Development.

1.1 The Consultant shall confer with the City's Assistant Director of Community Relations and Public Affairs (the "Assistant Director") to develop an annual Federal Program outlining the City's federal and executive branch priorities and interest areas. The Assistant Director and the Consultant shall determine a mutually agreeable time frame for annual development of a statement of the Federal Program.

1.2 In order to develop the Federal Program, the Consultant shall (A) identify major issues which may potentially affect the City and which are expected to be debated in Congress and the Administration in the coming year and (B) prepare a draft program for review by the Assistant Director. Also, the Federal Program shall provide for the maintenance of positive working relationships on behalf of the City with elected officials, business leaders and stakeholders in the community.

1.3 The Consultant shall make at least one on-site visit to the City annually to confer with City officials and City staff about the Federal Program and other federal issues.

1.4 The Assistant Director shall coordinate communication between the City and Consultant and the Consultant shall be responsible for developing a draft Federal Program document.

2. Advice and Advocacy on the City's Behalf.

2.1 The Consultant shall (A) monitor and review federal executive proposals, legislation under consideration, proposed and adopted administrative rules and regulations, and other Washington-based developments and (B) proactively advise the City of those items which may have a bearing on the City's Federal Program, policies or other interest areas, either specific to the City or the region. All communication between the Consultant and the City shall go through the Assistant Director.

2.2 The Consultant shall (A) recommend to the Assistant Director strategies for advocacy of the City's position on priority issues, including contacts with the Arizona Congressional Delegation, other members of Congress, federal agencies, and key interest groups and (B) perform appropriate liaison and follow-up work on behalf of the City as necessary for full Washington area service.

2.3 The Consultant shall prepare draft correspondence for submission to

federal agencies when requested to do so by the Assistant Director; and shall recommend and perform appropriate liaison and follow-up work to obtain the most favorable consideration of such proposals.

2.4 The Consultant shall attend applicable meetings on the City's behalf as requested by the Assistant Director.

3. Federal Information Services.

3.1 The Consultant shall provide to the Assistant Director copies of bills, committee reports, federal agency rules and reports or other high quality information reasonably available which is pertinent to issues identified in the Federal Program or having a bearing on the City.

3.2 The Consultant shall provide high quality timely information and analysis on emerging federal issues. The Consultant must be accessible and able at times to provide instantaneous information and responses.

3.3 The Consultant shall provide weekly written reports on federal legislation and issues that is specifically related to the City's federal legislative program or services provided by the City.

3.4 The Consultant shall provide a mid-congressional session and post-congressional status report to the Government Relations Director regarding the City's federal legislative program.

3.5 The Consultant shall initiate communications with City department heads, through the Assistant Director, a **MINIMUM** of every six months to share federally related information pertinent to that department.

3.6 The Consultant shall demonstrate efforts to proactively build upon relationships with the City's congressional delegation and federal agency staff. Updates on these activities shall be included in a monthly status report.

4. Support for City Officials Traveling on Federal Business.

4.1 The Consultant shall prepare briefing materials and/or conduct briefings for City officials preparing to meet with members of Congress, testify before Congressional committees and administrative agencies, conduct other City business or attend national conferences relating to federal issues of municipal interest.

4.2 The Consultant, in coordination with the Assistant Director, shall (A) make meeting arrangements, (B) plan Mayor and Council itinerary for, but not limited to, Washington visits and conferences, (C) make necessary contacts and (D) provide "advance information" on agencies and officials the Mayor and Council are meeting.

4.3 The Consultant shall arrange for appointments and accommodations for City officials to facilitate the efficient and effective performance of City business while in Washington, D.C. The Consultant is expected to make available Washington, D.C. office facilities to the City's Mayor, Council and staff during periodic business meetings. These meetings are generally associated with the U.S. Conference of Mayors, National League of Cities or similar interest groups. Occasionally a short trip may be scheduled to meet with officials in Washington on specific issues in support of lobbying efforts.

5. Performance Reports.

5.1 The Consultant shall provide to the Assistant Director a monthly status report outlining the Consultant's activities for that month on behalf of the City. The report shall accompany the monthly invoice, if available.

5.2 The Consultant shall also provide an annual performance report summarizing accomplishments and activities relating to the City's Federal Program and other areas of interest. This requires succinct weekly reports summarizing information specifically related to the City's federal issues and federal action of interest to the City in a format suitable for reproduction and City distribution. The purpose of the weekly reports shall be to keep the Mayor, City Council and the City staff generally abreast of major legislation in Congress and major federal actions that may affect cities across the country. In addition to a generalized report on federal issues relating to all U.S. cities, the status report shall outline policy details specifically related to the City and the City's current and proposed legislative issues.

6. National Organization Support. The City is an active member of the National League of Cities, so Consultant must provide information pertinent to this organization and upcoming conferences to the Assistant Director. The Consultant shall assist the Assistant Director in briefing the Mayor and Council for conference meetings. The Consultant shall also be responsible for assisting with conference registration and work closely with the Assistant Director to facilitate conference arrangements.

7. Staff Qualifications.

7.1 Consultant's staff shall have and maintain the experience, education and ability to represent the City at the federal level. Consultant's office shall have the staff capability and technology to effectively communicate with the City's Mayor, Council and staff on a frequent basis or daily basis, when necessary.

7.2 Consultant must have the ability to effectively communicate complex federal issues both orally and in writing in a succinct and precise manner with the City's Mayor, Council, staff and elected representatives.

7.3 The Consultant shall have a demonstrated knowledge of federal issues of interest to the City.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITAL EDGE ADVOCACY INC.

[Fee Proposal]

See following page.

Fee Proposal

We would propose an annual compensation level of \$69,000.00 for services described in the Request for Proposals, payable in 12 monthly installments of \$5,750.00. This monthly retainer would serve as the only vehicle for compensation and we do not propose any hourly rates above this amount for our services. CapitalEdge principals do not place any restrictions on the time that would be spent providing services to the City of Avondale, and we fear that outlining estimated staff hours could only serve to limit the time that we spend on matters related to Avondale.

We strive to offer the most comprehensive services at a reasonable price, and we are confident that Avondale will receive the highest levels of service and support in the most cost-effective manner. Based on the City's population and sophistication of city staff and services, we believe that this price is fair while still allowing us the opportunity to use all of our resources on behalf of Avondale.

Of course, the proposed compensation is negotiable.

Respectfully submitted and approved:



Christopher F. Giglio, President
Capital Edge Advocacy Inc.



CITY COUNCIL AGENDA

SUBJECT:

Ordinance 1586-715- Authorizing the Acquisition
of Property of Public Use - Rio Vista

MEETING DATE:

7/20/2015

TO: Mayor and Council**FROM:** Cindy Blackmore, Public Works Director, 623-333-4410**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is requesting the City Council adopt an ordinance accepting the dedication of waterline easements in the Rio Vista area to facilitate the construction of waterlines in the area, and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the appropriate documentation.

DISCUSSION:

Staff is currently designing a waterline in 127th Avenue to provide a major missing link in the water system in the southern part of Avondale. This waterline will provide an opportunity to construct area waterlines that will be capable of supplying fire flows that are currently not available. New waterline easements across currently undeveloped land are needed to construct these waterlines. Most of the property owners have agreed to dedicate the waterline easements at no charge. One parcel (APN 500-65-012T) will require payment of \$2,000 to enable this dedication. The parcels and their location are listed below. See attached vicinity map.

500-65-158, 500-65-012Z, 500-65-012Y County Line Road, East of 127th Avenue

500-65-012T County Line Road, East of 127th Avenue

500-65-147, 500-65-010Z Pioneer Road, East of 127th Avenue

BUDGET IMPACT:

\$2,000 is available in Line Item 514-1057-00-8520, Citywide Water Improvements.

RECOMMENDATION:

Staff recommends the City Council adopt an ordinance authorizing the acquisition of property for public use in the Rio Vista area to facilitate the construction of waterlines in the area, and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the appropriate documentation.

ATTACHMENTS:**Description**

[Ordinance -1586-715](#)

[Vicinity Map](#)

ORDINANCE NO. 1586-715

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to acquire real property in fee simple or any lesser interest, inside or outside its corporate limits for any City purpose, when the public convenience requires it and in accordance with the provisions of State law; and

WHEREAS, the Council of the City of Avondale (the “City Council”) desires to authorize the acquisition of waterline easements over, under and across certain real property generally located on County Line Road and Pioneer Street east of 127th Avenue for use in connection with the City’s water system.

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

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

SECTION 2. The acquisition, by purchase, condemnation or dedication of a waterline easement over, under and across real property totaling ± 0.0487 acres, generally located on County Line Road east of 127th Avenue, as more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference (the “Campion WLE”), is hereby authorized.

SECTION 3. The acquisition, by purchase, condemnation or dedication of a waterline easement over, under and across real property totaling ± 0.031 acres, generally located on county Line Road east of 127th Avenue, as more particularly described and depicted on Exhibit B attached hereto and incorporated herein by reference (the “Viveros WLE”), is hereby authorized.

SECTION 4. The acquisition, by purchase, condemnation or dedication of a waterline easement over, under and across real property totaling ± 0.138 acres, generally located on Pioneer Street east of 127th Avenue, as more particularly described and depicted on Exhibit C attached hereto and incorporated herein by reference (the “Walker WLE”), is hereby authorized.

SECTION 5. In the event a negotiated purchase cannot be reached for the Campion WLE, Viveros WLE or Walker WLE, the City Attorney is hereby authorized to immediately initiate condemnation proceedings, including all actions necessary to enable the City to take possession of said real property at the earliest possible date.

SECTION 6. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, July 20, 2015.

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1586-715

[Legal Description and Map of Campion WLE]

See following pages.

127th Ave Waterline - County Line Road
Waterline Easement
Part of APN: 500-65-158, 500-65-012Z and 500-65-012Y
M & R Campion Enterprises, LLP

EASEMENT LEGAL DESCRIPTION

That part of the North half of the Southwest quarter of the Northwest quarter of the Northeast quarter of Section 23, Township 1 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County Arizona more particularly described as follows:

Commencing at the North quarter corner of said Section 23, from whence the northeast corner thereof bears South 89°06'56" East a distance of 2596.02 as a basis of bearing;

Thence South 00°51'15" East along the mid-section line of said Section 23 for a distance of 990.10 feet to a point on the South line of said North half;

Thence South 89°20'00" East along the South line of said North half a distance of 33.01 feet to the True Point of Beginning also being the Southwest corner of the parcel labelled Parcel 5 of that certain deed recorded in Docket 2006-0039771, official records of Maricopa County;

Thence North 00°51'15" West along the west line of said Parcel 5 for a distance of 10.00 feet;

Thence departing from the west line of said Parcel 5 South 89°20'00" East along a line 10.00 feet north of and parallel with the South line of said North half for a distance of 211.99 feet to a point on the Westerly line of the East 405 feet of said North half;

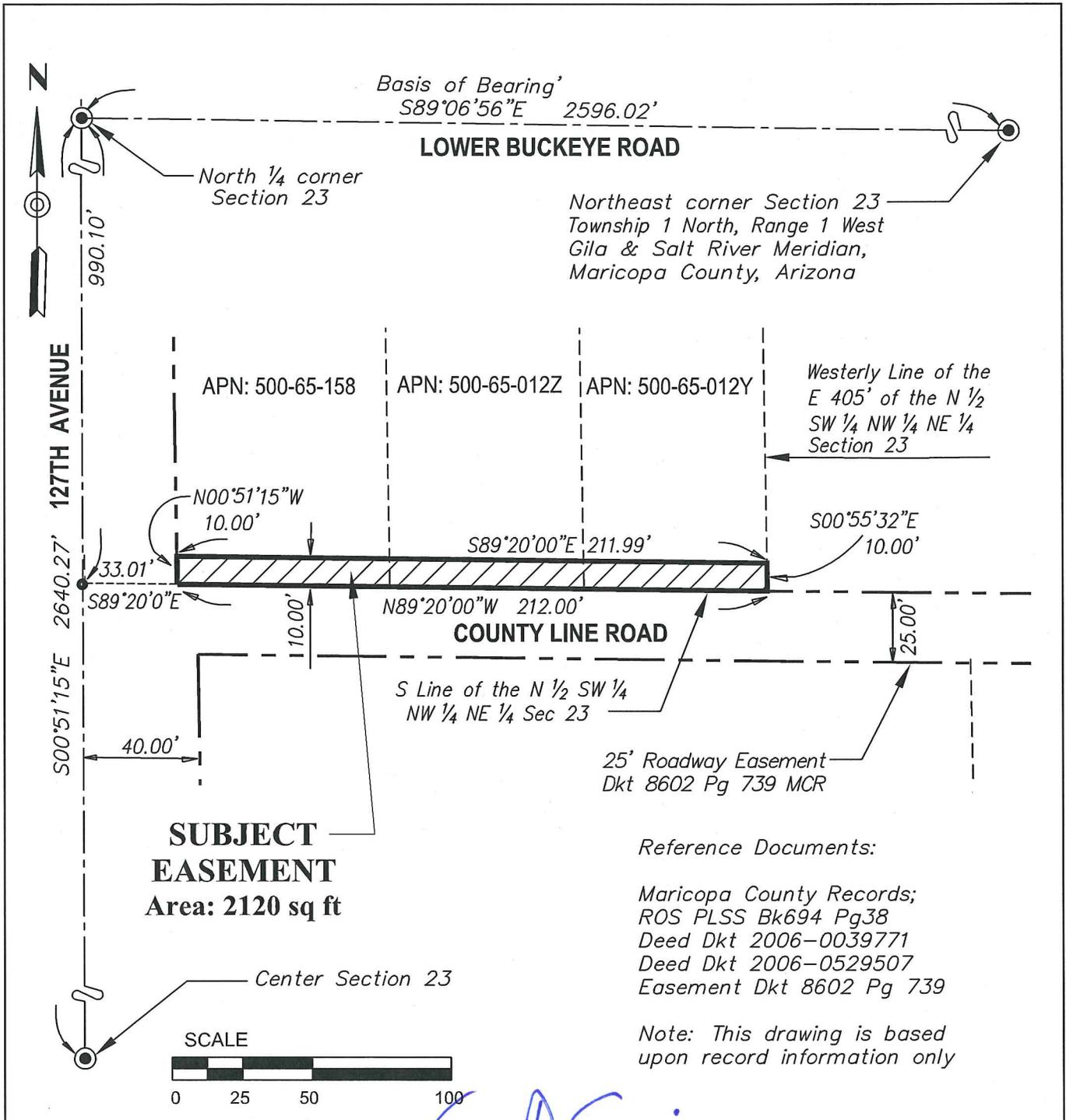
Thence South 00°55'32" East along said Westerly line for a distance of 10.00 feet to the Southeast corner of the parcel labelled Parcel 3 of that certain deed recorded in Docket 2006-0039771, official records of Maricopa County;

Thence departing from said westerly line North 89°20'00" West along the south line of said North half for a distance of 212.00 feet to the True Point of Beginning;

Said Easement Parcel contains and area of 2120 square feet, more or less.



EXPIRES JUNE 30, 2016



Reference Documents:
 Maricopa County Records;
 ROS PLSS Bk694 Pg38
 Deed Dkt 2006-0039771
 Deed Dkt 2006-0529507
 Easement Dkt 8602 Pg 739

Note: This drawing is based upon record information only

Avondale

DEVELOPMENT AND
 ENGINEERING SERVICES
 DEPARTMENT



EXPIRES: 6-30-2016

**EXHIBIT MAP
 WATERLINE EASEMENT**

Part APN: 500-65-158, 500-65-012Z & 012Y

DATE: 01-28-2015
 DSN:
 DRN: LS
 CHK: CH

PROJECT NAME
 127TH AVE WATERLINE
 PAGE
 1 OF 1

EXHIBIT B
TO
ORDINANCE NO. 1586-715

[Legal Description and Map of Viveros WLE]

See following pages.

127th Ave Waterline - County Line Road
Waterline Easement
Part of APN: 500-65-012T
Owner: Enrique Viveros

EASEMENT LEGAL DESCRIPTION

The South ten feet of the South 99 feet of the West 135 feet of the East 405 feet of the North half of the Southwest quarter of the Northwest quarter of the Northeast quarter of Section 23, Township 1 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County Arizona.



EXPIRES JUNE 30, 2016



Basis of Bearing'
S89°06'56"E 2596.02'

LOWER BUCKEYE ROAD

North 1/4 corner
Section 23

Northeast corner Section 23
Township 1 North, Range 1 West
Gila & Salt River Meridian,
Maricopa County, Arizona

127TH AVENUE
S00°51'15"E 2640.27'

990.10'

APN: 500-65-012T

Westerly Line of the W 135'
of the E 405' of the N 1/2
SW 1/4 NW 1/4 NE 1/4 Section 23

N00°55'32"W
10.00'

S89°20'00"E 135.05'

S00°55'32"E
10.00'

S89°20'00"E 245.01'
COUNTY LINE ROAD

N89°20'00"W 135.05'

25' Roadway Easement
Dkt 8602 Pg 739 MCR

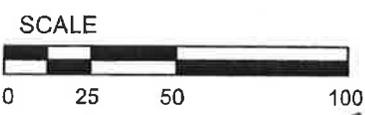
S Line of the N 1/2
SW 1/4 NW 1/4 NE 1/4
Section 23

**SUBJECT
EASEMENT**
Area: 1351 sq ft

Reference Documents:
Maricopa County Records;
ROS PLSS Bk694 Pg38
Deed Dkt 2006-0529507
Easement Dkt 8602 Pg 739

Note: This drawing is based
upon record information only

Center Section 23



Avondale

DEVELOPMENT AND
ENGINEERING SERVICES
DEPARTMENT



EXPIRES: 6-30-2016

**EXHIBIT MAP
WATERLINE EASEMENT**

Part APN: 500-65-012T

DATE: 01-28-2015
DSN: _____
DRN: LS
CHK: CH

PROJECT NAME
127TH AVE WATERLINE
PAGE
1 OF 1

EXHIBIT C
TO
ORDINANCE NO. 1586-715

[Legal Description and Map of Walker WLE]

See following pages.

127th Avenue Waterline - Pioneer Street
Waterline Easement
Part of APN: 500-65-147 and 500-65-010Z
Jack and Audrey Walker - Trust

EASEMENT LEGAL DESCRIPTION

That part of the North half of the North half of the North half of the Southwest quarter of the Northeast quarter of Section 23, Township 1 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County Arizona more particularly described as follows:

Commencing at the North quarter corner of said Section 23, from whence the northeast corner thereof bears South 89°06'56" East a distance of 2596.02 as a basis of bearing;

Thence South 00°51'15" East along the mid-section line of said Section 23 for a distance of 1320.14 feet to a point on the North line of said Southwest quarter;

Thence South 89°24'21" East along said North line a distance of 33.01 feet to the True Point of Beginning also being the northwest corner of the parcel described in Exhibit "B" of that certain deed recorded in Docket 2006-1405337, official records of Maricopa County;

Thence continuing South 89°24'21" East along the said North line a distance of 601.08 feet to a point on the East line of the West 326.66 feet of the East 993.33 feet of said Southwest quarter also being the northeast corner of the property described in that certain deed recorded in Docket 2006-1405338, official records of Maricopa County;

Thence South 00°59'50" East along said East line for a distance of 10.00 feet;

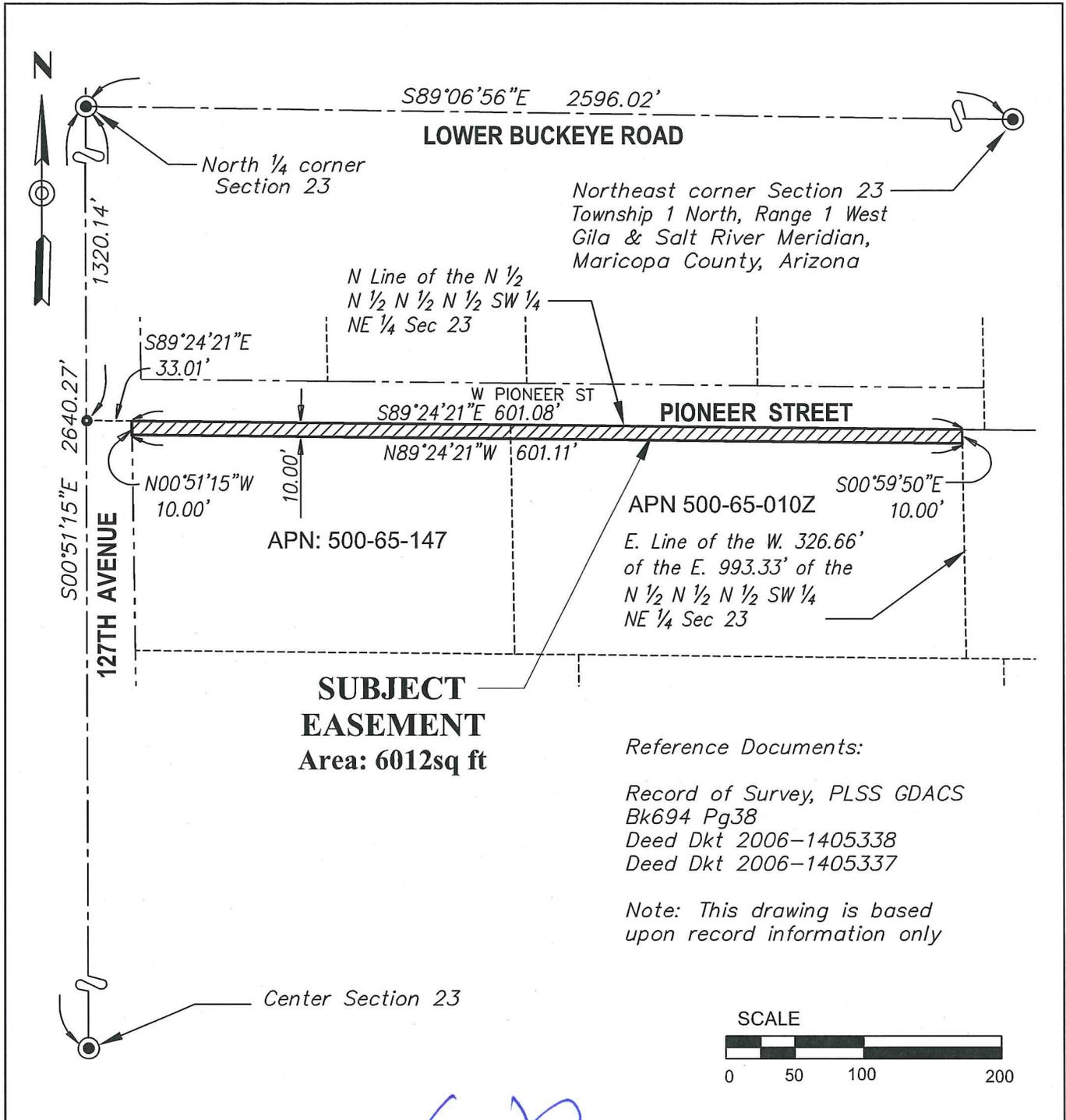
Thence departing said East line, North 89°24'21" West along a line 10.00 feet south of and parallel with the north line of said Southwest quarter for a distance of 601.11 feet to a point on a line 33.00 feet east of and parallel with the mid-section line of said Section 23,

Thence North 00°51'15" West along said parallel line for distance of 10.00 feet to the True Point of Beginning;

Said Easement Parcel contains and area of 6012 square feet, more or less.



EXPIRES JUNE 30, 2016



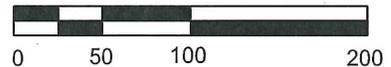
**SUBJECT
EASEMENT**
Area: 6012sq ft

Reference Documents:

Record of Survey, PLSS GDACS
Bk694 Pg38
Deed Dkt 2006-1405338
Deed Dkt 2006-1405337

Note: This drawing is based upon record information only

SCALE



Avondale

DEVELOPMENT AND
ENGINEERING SERVICES
DEPARTMENT



EXPIRES: 6-30-2016

**EXHIBIT MAP
WATERLINE EASEMENT**

Part APN: 500-65-147 & 500-65-010Z

DATE: 01-26-2015
DSN: _____
DRN: LS
CHK: CH

PROJECT NAME
Brinker Alley

PAGE
1 OF 1

CITY OF AVONDALE





CITY COUNCIL AGENDA

SUBJECT:

Public Hearing and Ordinance 1585-715
Amendment to Palm Valley-Avondale Planned
Area Development (PAD) - Application PL-15-
0076

MEETING DATE:

7/20/2015

TO:

Mayor and Council

FROM:

Tracy Stevens, Development & Engineering Services Director (623) 333-4012

THROUGH:

David Fitzhugh, City Manager (623) 333-1014

REQUEST:

Amend the Palm Valley-Avondale PAD, specific to Lot 3 of the Dysart Commons II subdivision, to: 1) Allow for a gas station with convenience kiosk subject to a Conditional Use Permit, 2) Allow permanent outdoor cabinets for the display and sale of foods & beverages, 3) Allow "button signs" on the proposed fuel canopy, 4) Allow a 6 square foot increase in the maximum size of freestanding fuel price signs, and 5) Allow a total of four parking spaces related to the proposed use

PARCEL SIZE:

Lot 3 of the Dysart Commons II subdivision is approximately 1.13 net acres

LOCATION:

Northeast corner of Dysart Road and Thomas Road (Exhibits A, B, and C)

APPLICANT:

Mr. Ali Fakhri, Sustainability Engineering Group (480) 588-7226

OWNER:

Dysart Investment, LLC, Mr. Hooman Davoodi (310) 977-7757

BACKGROUND:

The subject property is located within the Palm Valley PAD. One of the areas designated for commercial development is located at the northeast corner of Dysart and Thomas Roads. The PAD does not specify the permitted uses or development standards for any commercially designated land within its boundaries.

The City and SunCor Development entered into a development agreement in 1993 which was subsequently amended three times, in 1997, 1998, and 2002. The third amendment to the development agreement (2002) specified C-1 (Neighborhood Commercial) uses and development standards for the subject property.

The Master Site Plan for the Dysart Commons Shopping Center was approved by the City Council on September 6, 2005. Construction of the primary building was completed in 2007 and is partially

occupied by a gym, several restaurants, a dance studio, and other commercial uses; construction on the five pad sites has not yet occurred.

A Final Plat for Dysart Commons, dedicating all necessary rights-of-way and easements, was approved by the City Council on May 15, 2006. The original Final Plat did not create separate lots for the five outlying pads, keeping them under the same ownership as the primary shopping center building. A Replat of Dysart Commons was approved by the City Council on October 15, 2012, creating separate lots for the outlying pads, allowing the property owner to sell the pad sites to separate owners. The subject property is Lot 3 of the Dysart Commons II platted subdivision.

The General Plan 2030 designates the property as Local Commercial. Per the General Plan, the Local Commercial designation is defined as follows: *“Land use category that is used primarily for providing for the daily needs of goods and services to the residents residing within the surrounding area. The types of uses allowed in this category may include: grocery stores, gas stations, neighborhood/retail services, and office and medical uses serving consumers residing in adjacent residential areas, which promotes a walkable community. Preferred locations are major arterial intersections, although other locations may be deemed acceptable based on the merits of the project.”* The property is also located within the boundaries of the North Avondale Specific Plan, which prioritizes facilitating the buildout of North Avondale, taking advantage of Estrella Mountain Community College as an economic generator, ensuring design is compatible with the existing character of the area, and developing a sense of place at entry points into Avondale.

Lot 3 is bordered on the north and east by other lots within the Dysart Commons shopping center. Other adjacent land uses are as follows:

- **SOUTH:** South of Thomas Road, undeveloped, vacant property, also part of the Palm Valley PAD, and also permitted uses in line with the C-1 (Neighborhood Commercial) zoning district. The corner site was recently approved for a Quik Trip Gas Station and Convenience Store.
- **WEST:** Estrella Mountain Community College (EMCC), an accredited college serving approximately 15,000 students per year, with a staff that includes approximately 300 academic faculty and 200 administrative personnel.

SUMMARY OF REQUEST:

The applicant, Mr. Ali Fakhri, Sustainability Engineering Group, is requesting approval of five amendments to the Palm Valley Planned Area Development (PAD) to facilitate construction of a proposed Fry's Fuel Center gas station and convenience store kiosk on Lot 3 of the Dysart Commons II Platted Subdivision. The five requested amendments (Exhibit E), which would apply only to Lot 3, are as follows:

Amendment #1: Request to revise the permitted uses on the subject property to allow for gas stations with or without convenience stores as a Conditional Use. This use is not currently permitted on the property.

Amendment #2: Request to allow permanent outdoor merchandise cabinets that will be stocked with food, beverages, and other convenience items for sale to the public. The Zoning Ordinance prohibits outdoor storage of goods and materials in commercial districts, and also requires commercial equipment, such as vending machines and ice machines, to be located inside an enclosed building.

Amendment #3: Request to modify City sign standards to allow for “button signs” on the proposed fuel canopy. The City's Sign Ordinance does not include an allowance for gas station canopy signs.

Amendment #4: Request to modify City sign standards to allow for fuel station price signs 24 square feet in size. When gas stations are part of master planned commercial corners, as this location is, the City's Sign Ordinance limits the size of these signs to 18 square feet.

Amendment #5: Request to allow for a total of four parking spaces to serve the proposed gas station. Based on the small size of the employee kiosk (232 square feet), the Zoning Ordinance caps the maximum number of spaces for this use to 1 parking space.

Evaluation of each of these requests can be found in the Analysis section of this report.

PARTICIPATION:

The applicant conducted a neighborhood meeting on Thursday, May 14th at 7:00 P.M. at Corte Sierra Elementary School. The meeting was advertised in the April 28, 2015 edition of the West Valley View. A notification sign was erected on the subject property on April 28, 2015. Additionally, 17 property owners within 500 feet of the subject property were notified of the meeting by letters sent by the applicant on April 28, 2015.

Nine members of the public attended the neighborhood meeting with 7 persons opting to sign-in (Exhibit J). Of the seven persons on the sign-in sheet, six indicated opposition to the proposals, with one person in support. Upon conclusion of the presentation, the applicant opened the floor for questions and comments. Primary topics for discussion included the general appropriateness of a gas station at this location, potential other locations for gas stations that would have less impact on the nearby neighborhoods, engagement with nearby existing businesses, redemption of Fry's Fuel points at non-Fry's Fuel Centers, maintenance of landscaping, concentration of gas stations in the area, timing of development, concerns over increased neighborhood traffic and safety, and gas stations attracting vagrancy. The minutes of the meeting are included as Exhibit J. Following the neighborhood meeting, staff received three letters/emails regarding the proposal, one in support and two in opposition (Exhibit K).

Letters notifying nearby property owners of the June 18, 2015 Planning Commission meeting were mailed on June 2, 2015. Additionally, the sign was updated to include the time and date of this meeting on June 2, 2015. Lastly, a notice of the Planning Commission hearing was published in the West Valley View on June 2, 2015.

Letters notifying nearby property owners of this City Council meeting were mailed on July 2, 2015. The sign was updated to include the date, time, and location of the City Council meeting on June 30, 2015. Additionally, a notice of the City Council hearing was published in the West Valley View on June 30, 2015. No additional comments on this proposal have been received to date.

PLANNING COMMISSION ACTION:

The Planning Commission conducted public hearings on the PAD Amendment and CUP requests on June 18, 2015 (Exhibit L).

Commission had the following questions and comments:

- Chair Scibienski inquired into the durability of the fabric shade canopy proposed for the pedestrian seating area. The applicant responded that maintenance of the canopy would be the responsibility of Fry's.
- Chair Scibienski stated that he did not like the kiosk and outdoor merchandise cabinet components of the project, and questioned whether the cabinets would invite theft after hours. He stated that he believed this type of model made sense when located near a Fry's store, but a full service convenience store makes more sense in these types of locations. The applicant responded that Fry's focuses on fuel sales and the food and beverage sales are a

minor component provided as a convenience to their customers. The applicant also noted that theft was not an issue at other locations, as the cabinets are designed to lock down after hours.

- Commissioner Kugler asked whether Thomas Road was identified as an arterial. Staff responded that Thomas Road was identified in the City's planning documents as an arterial, though it operates more similarly to a collector due to the lack of a connection over the Agua Fria River.
- Commissioner Kugler noted that he supports Fry's as a customer but that he was not in support of the proposed fuel center at this location, as gas stations are not marketable gateways into nearby subdivisions and a second gas station is not the highest and best use of land at the Dysart Road and Thomas Road intersection. Commissioner Kugler continued, stating that he believed the lack of symmetry between the approved QuikTrip and the proposed Fry's would undermine the definition of a master planned community.

Eight audience speaker cards were submitted to the clerk indicating opposition to the Fry's Fuel Center proposals. Of those eight persons in opposition, six spoke during the public hearing, indicating concerns including, but not limited to, the general incompatibility of gas station use with nearby neighborhoods, the lack of need for a second gas station at this intersection with the QuikTrip already approved, traffic safety, increased traffic on Santa Fe Trail, and the expectations of area residents that only lower-intensity uses would occur here. With the exception of the applicant team, no persons spoke in favor of the proposed request.

New petitions and letters were entered into the record at the Planning Commission meeting, as follows:

- 102 letters and a petition signed by 108 persons in support of the PAD Amendment and CUP requests (Exhibit M). Please note that there is overlap between the signed letters and petition (e.g. same person wrote letter and signed petition); the total number of persons that have indicated support is approximately 120.
- 136 signatures opposing the PAD Amendment and CUP requests on the grounds that a gas station use is not in the best interest of the community (Exhibit N).

Upon conclusion of the public hearing, the Commission voted 3-1 to recommend denial of the requested PAD Amendment.

ANALYSIS:

Amendment #1 (Gas Station Use)

The General Plan Land Use designation for this site is Local Commercial, which supports uses that provide for the daily needs of goods and services to the residents residing within the surrounding area. The types of uses specifically noted as appropriate for this category include: Grocery stores, gas stations, neighborhood/retail services, and office and medical uses serving consumers residing in adjacent residential areas, which promotes a walkable community. The preferred locations are at arterial intersections, although other locations may be deemed acceptable based on the merits of the project.

The proposed amendment to allow gas stations as a Conditional Use is consistent with the current and planned commercial land uses in the immediate area as well as being in direct conformance with the General Plan designation of Local Commercial. The proposed amendment is specific to the 1.13 acre subject parcel located on the hard corner of the intersection of Dysart and Thomas Roads and is over 450 feet from the nearest residential property line, thereby minimizing any potential light, noise, and traffic impact to the nearby residential developments. In addition, the existing Dysart Commons shopping center main shops building would act as a buffer between the proposed gas station and the Las Palmeras West community. Furthermore, with the requirement that the use

obtain a Conditional Use Permit, any gas station at this location will be required to go through the process of a conditional use permit, adding an additional layer of review. To grant the CUP, five findings must be met that will ensure that any negative impacts created by the use will be mitigated.

The site is located within the North Avondale Specific Area Plan (NASP). The NASP provides a vision for future development of both residential and commercial properties located in north Avondale. Additionally, the NASP focuses on specific goals and objectives contained in the General Plan which encourages future development in and around existing community assets such as the Estrella Mountain Community College.

In accordance with the NASP, the proposed development (Exhibits F, G, and H) achieves compatibility with the architecture of the Dysart Commons shopping center through utilization of the same colors, materials, and forms as the existing shops buildings, promotes connectivity by enhancing pedestrian connections into Dysart Commons and creating landscape enhancements, and a shaded seating node at the corner of Dysart Road and Thomas Road.

Amendment #2 (Outdoor Merchandise Cabinets)

Within commercial districts, the Zoning Ordinance requires all goods and merchandise to be stored and sold within enclosed buildings. The intent of this requirement is to prevent visual clutter from having significant negative impacts on the aesthetics of a business and the surrounding area. Early in the process, staff indicated to the applicant that standard outdoor merchandise displays and vending machines cannot be supported for this project.

Outdoor merchandise displays that are integrated into the architecture of a building are quite different than standard vending displays, and alleviate staff's concern that area aesthetics will be impacted. With direction from staff, the applicant agreed to integrate the overall architectural theme of the Dysart Commons center, including wrapping the merchandise cabinets in stone, painting any exposed portions with paint colors used elsewhere in the center, and prohibiting signage of any kind on those displays.

Amendments #3 and #4 (Signage)

The Zoning Ordinance states that no sign shall be painted on, mounted to, or affixed in any way to an awning and/or canopy, except within the City Center (CC) or Old Town Avondale Business (OTAB) Zoning Districts. Additionally, the Zoning Ordinance limits the size of freestanding variable message signs for vehicle fueling stations to 16 square feet per side when the gas station it serves is part of a shopping center or planned development; 24 square feet per side is permitted when the gas station is independent of a shopping center development.

The applicant proposes modifying both of these requirements (Exhibit I). Regarding the canopy mounted signs, the applicant is requesting to amend the PAD as it pertains to this parcel to allow for 11 square feet of "button signage" per canopy side. The amendment, if approved, would allow for the Fry's Fuel Center logo to be placed on the upper left corner of each canopy elevation. Regarding the variable message fuel price sign, the applicant is seeking approval of an amendment that will allow for these freestanding signs to be 24 square feet in area, 8 square feet larger than is typically allowed when gas stations are part of master planned shopping centers, but in line with the size allowed when gas stations are developed on independent parcels.

The applicant has also proposed an enhanced landscape package adjacent to arterial street sides at the corner as well as a shaded pedestrian node and pedestrian connections (Exhibits F and G).

Amendment #5 (Parking)

The City's Zoning Ordinance establishes the minimum required number of parking spaces that must

be provided for new development, as well as a cap on the maximum number of spaces that can be provided. The calculation of required parking spaces is based upon the square footage of a building, however, and does not anticipate instances such as this where only a small indoor space is provided. Using Zoning Ordinance calculations, the proposed fuel center is allowed a maximum of one parking space, based on the fact that the proposed kiosk is only 232 square feet in area. Additional parking spaces are required – 1 ADA space is mandatory, and during shift changes, Fry's anticipates two employee vehicles being present and parked. The proposed amendment allowing for a total of four parking spaces (1 ADA, 3 standard spaces) is the minimum number of spaces necessary to allow for safe and efficient operation of the proposed use.

FINDINGS:

1. The requested amendment is in direct conformance with the underlying General Plan Land Use category of Local Commercial.
2. Approval will result in a development compatible with nearby neighborhoods and ensure a significant buffer of over 450 feet is maintained between the closest residential property line and proposed gas station use.
3. Approval will further the goals and objectives of the North Avondale Specific Plan by creating a stronger sense of place at the corner of Dysart Road and Thomas Road, benefit EMCC, and enhance pedestrian conditions in the area.

RECOMMENDATION:

On June 18, 2015, the Planning Commission **RECOMMENDED DENIAL** of application PL-15-0076, a request to amend the Palm Valley Planned Area Development (PAD), revising the permitted uses, sign allowances, parking requirements, and outdoor storage/display requirements for Lot 3 of the Dysart Commons subdivision.

PROPOSED MOTION:

Two motions are included below. The first, a motion to deny the PAD Amendment, is as recommended by Planning Commission.

Should the City Council approve the proposal, a motion for approval, subject to two staff recommended stipulations, is provided.

Motion to DENY as recommended by the Planning Commission:

I move that the City Council reject the findings and **DENY** Application PL-15-0076, a request to amend the Palm Valley Planned Area Development (PAD), revising the permitted uses, sign allowances, parking requirements, and outdoor storage/display requirements for Lot 3 of the Dysart Commons subdivision.

Alternative Motion to APPROVE with recommended conditions of approval:

I move that the City Council accept the findings and **APPROVE** the Ordinance approving Application PL-15-0076, a request to amend the Palm Valley Planned Area Development (PAD), revising the permitted uses, sign allowances, parking requirements, and outdoor storage/display requirements for Lot 3 of the Dysart Commons subdivision, subject to the following two conditions of approval:

1. The Palm Valley PAD Development Plan, Ordinance, Development Agreement and amendments thereto, including all stipulations of prior approvals, shall remain in full force and effect, unless expressly modified by this amendment.
2. Development of a gas station on the subject parcel shall conform to the PAD Amendment Project Narrative, date stamped June 4, 2015, and included as staff report Exhibit E.

ATTACHMENTS:

Description

[Exhibits A - N](#)
[Ordinance 1585-715](#)

PROJECT MANAGER:

Ken Galica, Senior Planner (623) 333-4019

ITEM #4: PUBLIC HEARING AND ORDINANCE – AMENDMENT TO PALM VALLEY-
AVONDALE PLANNED AREA DEVELOPMENT (PAD) - APPLICATION PL-15-0076

Due to their size, the following attachments have been posted separately:

Exhibit A	General Plan Land Use Map http://www.avondale.org/DocumentCenter/View/36419
Exhibit B	Zoning Vicinity Map http://www.avondale.org/DocumentCenter/View/36420
Exhibit C	Aerial Photograph http://www.avondale.org/DocumentCenter/View/36421
Exhibit D	Summary of Related Facts http://www.avondale.org/DocumentCenter/View/36422
Exhibit E	Applicant's PAD Amendment Request Narrative http://www.avondale.org/DocumentCenter/View/36423
Exhibit F	Proposed Conceptual Site Plan http://www.avondale.org/DocumentCenter/View/36424
Exhibit G	Proposed Conceptual Landscape Plan http://www.avondale.org/DocumentCenter/View/36425
Exhibit H	Proposed Preliminary Canopy and Kiosk Elevations http://www.avondale.org/DocumentCenter/View/36426
Exhibit I	Proposed Conceptual Sign Plan http://www.avondale.org/DocumentCenter/View/36427
Exhibit J	Neighborhood Meeting Sign-In Sheet and Meeting Minutes (May 14, 2015 Meeting) http://www.avondale.org/DocumentCenter/View/36428
Exhibit K	Support/Opposition Letter and E-Mail Correspondence http://www.avondale.org/DocumentCenter/View/36429
Exhibit L	Excerpt of Draft Planning Commission Meeting Minutes (June 18, 2015) http://www.avondale.org/DocumentCenter/View/36430
Exhibit M	Petitions and Letters in Support of Proposal (Entered into record at June 18th PC Meeting) http://www.avondale.org/DocumentCenter/View/36431
Exhibit N	Petitions in Opposition to Proposal (Entered into record at June 18th PC Meeting) http://www.avondale.org/DocumentCenter/View/36432

ORDINANCE 1585-715

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, MODIFYING THE PLANNED AREA DEVELOPMENT ZONING FOR REAL PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF DYSART ROAD AND THOMAS ROAD, AS SHOWN IN APPLICATION PL-15-0076, BY AMENDING THE LAND USE PLAN FOR THE DEVELOPMENT.

WHEREAS, on September 6, 1994, the Council of the City of Avondale (the “City Council”) amended the City of Avondale Zoning Atlas (the “Zoning Atlas”) by rezoning approximately 1.13 acres of land located at the northeast corner of Dysart Road and Thomas Road (the “Property”) to a planned area development as part of a larger area (presently known as the “Palm Valley–Avondale PAD”) and designated uses for the subject property as “Neighborhood Retail,” but did not establish a use listing or development standards; and

WHEREAS, on January 7, 2002, the City Council approved an amendment to the Development Agreement with SunCor Development Company, which amendment addressed permitted uses for the Property and established that “Neighborhood Retail” shall be defined by using the City of Avondale Zoning Ordinance (the “Zoning Ordinance”) Neighborhood Commercial (C-1) zoning designation development standards and use listing; and

WHEREAS, the City Council now desires to modify the permitted uses, sign allowances, an enhanced landscape package, parking requirements, and outdoor storage/display requirements allowed on the Property within the Palm Valley-Avondale PAD as more particularly described on Exhibit A and depicted on Exhibit B, attached hereto and incorporated herein by reference, by adopting the amendment as shown in Application PL-15-0076, dated June 4, 2015 (the “2015 Amendment”), subject to certain modifications; and

WHEREAS, all due and proper notice of the public hearing on the 2015 Amendment held before the City of Avondale Planning Commission (the “Commission”) was given in the time, form and substance provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, June 18, 2015, on the 2015 Amendment, after which the Commission recommended approval; and

WHEREAS, the City Council held an additional public hearing regarding the 2015 Amendment on July 20, 2015.

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

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

SECTION 2. The 2015 Amendment is hereby approved subject to the following conditions:

1. The Palm Valley–Avondale PAD Development Plan and Ordinance, as amended, including all stipulations of the prior approvals, shall remain in full force and effect unless expressly modified by this 2015 Amendment.
2. The permitted uses allowed on the Property within the Palm Valley–Avondale PAD shall be amended to allow “Gas Station, with or without convenience store and/or car wash” as a use subject to a conditional use permit, as defined and conditioned in the 2015 Amendment.
3. The “Gas Station with or without convenience store and/or car wash” use shall be subject to all of the conditional use development standards in Section 305(A) of the Zoning Ordinance.

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

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

PASSED AND ADOPTED by the Council of the City of Avondale, July 20, 2015.

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1585-715

[Legal Description]

See following page.



GILBERT LAND SURVEYING, PLC
4361 S. Squires Lane, Gilbert, Arizona 85297
Phone: (480) 334-5936 - info@gibbertsurvey.com

EXHIBIT 'A'

LOT 3, OF THE FINAL PLAT FOR "DYSART COMMONS II", A REPLAT OF LOT 1 OF DYSART COMMONS (BOOK 908 OF MAPS, PAGE 30), AS RECORDED IN BOOK 1130 OF MAPS, PAGE 18, OFFICE OF THE COUNTY RECORDER, MARICOPA COUNTY, ARIZONA.



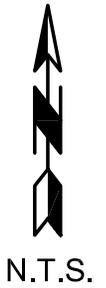
EXHIBIT B
TO
ORDINANCE NO. 1585-715

[Maps]

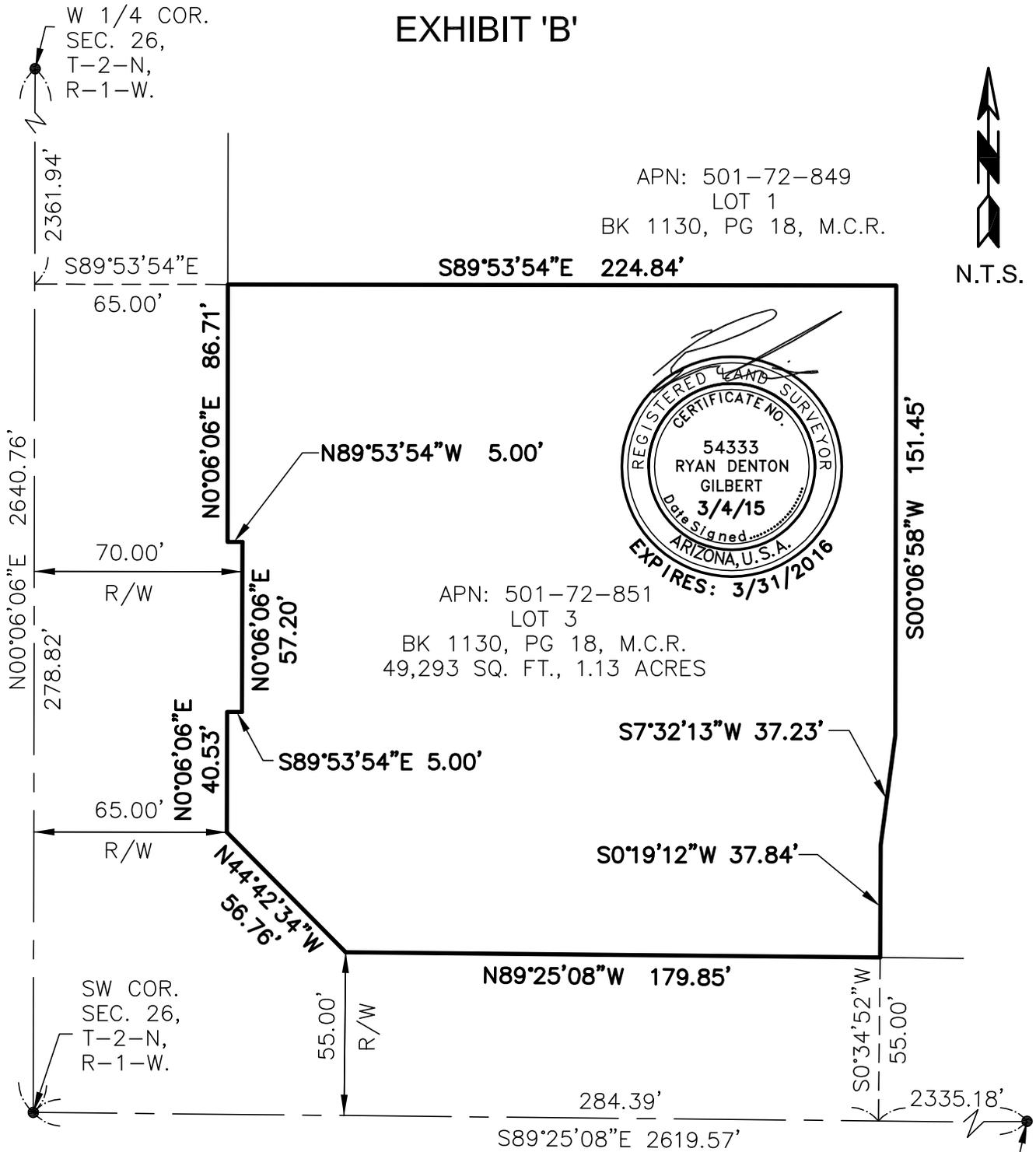
See following pages.

EXHIBIT 'B'

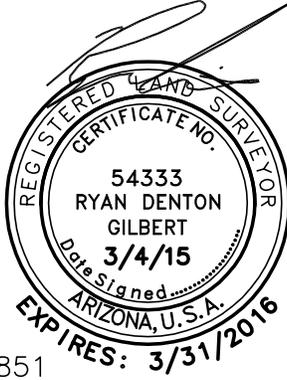
APN: 501-72-849
 LOT 1
 BK 1130, PG 18, M.C.R.



DYSART ROAD



APN: 501-72-851
 LOT 3
 BK 1130, PG 18, M.C.R.
 49,293 SQ. FT., 1.13 ACRES



NOTE: 1. THIS IS NOT A BOUNDARY SURVEY
 2. ALL VALUES SHOWN ARE RECORD UNLESS NOTED OTHERWISE.

THOMAS ROAD

S 1/4 COR.
 SEC. 26,
 T-2-N,
 R-1-W.



GILBERT LAND SURVEYING, PLC
 4361 S. Squires Lane, Gilbert, Arizona 85297
 Phone: (480) 334-5936 - info@gibbersurvey.com

PROJ. NO.: 150201
 PAGE: 1 OF 1 PAGES
 DATE: 3/4/15



Dysart Road

Thomas Road

Application PL-15-0076



Subject Property





CITY COUNCIL AGENDA

SUBJECT:

Public Hearing: Conditional Use Permit for Frys Fuel Center (Application PL-15-0077)

MEETING DATE:

7/20/2015

TO:

Mayor and Council

FROM:

Tracy Stevens, Development & Engineering Services Director (623) 333-4012

THROUGH:

David Fitzhugh, City Manager (623) 333-1014

REQUEST:

Approval of a Conditional Use Permit for a gas station with convenience kiosk. If approved, the CUP will permit the development of a gas station featuring 7 double-sided fuel pumps and a 232 square foot convenience store kiosk at the location noted above. The proposed use would operate between the hours of 5:00 A.M. and 11:00 P.M, seven days a week. Approval of this request is dependent upon approval of the previous item, Application PL-15-0076. The Council will take appropriate action.

PARCEL SIZE:

Lot 3 of the Dysart Commons II subdivision is approximately 1.13 net acres

LOCATION:

Northeast corner of Dysart Road and Thomas Road (Exhibits A, B, and C)

APPLICANT:

Mr. Ali Fakh, Sustainability Engineering Group (480) 588-7226

OWNER:

Dysart Investment, LLC, Mr. Hooman Davoodi (310) 977-7757

BACKGROUND:

The subject property is located within the Palm Valley PAD. The PAD includes areas for both residential and commercial development. One of the areas designated for commercial development is located at the northeast corner of Dysart and Thomas Roads. The PAD does not specify the permitted uses or development standards for any commercially designated land within its boundaries.

The City and SunCor Development entered into a development agreement in 1993 which was subsequently amended three times, in 1997, 1998, and 2002. The third amendment to the development agreement (2002) specified C-1 (Neighborhood Commercial) uses and development standards for the subject property.

The Master Site Plan for the Dysart Commons Shopping Center was approved by the City Council on September 6, 2005. The approved site plan calls for an L-shaped shops building and 5 pad lots on the periphery of the site. Construction of the primary building was completed in 2007 and is partially occupied by a gym, several restaurants, a dance studio, and other commercial uses;

construction on the five pad sites has not yet occurred.

A Final Plat for Dysart Commons, dedicating all necessary rights-of-way and easements, was approved by the City Council on May 15, 2006. A Replat of Dysart Commons was approved by the City Council on October 15, 2012, creating separate lots for the outlying pads, allowing the property owner to sell the pad sites to separate owners. The subject property is Lot 3 of the Dysart Commons II platted subdivision.

The General Plan 2030 designates the property as Local Commercial. The property is also located within the boundaries of the North Avondale Specific Plan, ensuring design is compatible with the existing character of the area, and developing a sense of place at entry points into Avondale. Lot 3 is bordered on the north and east by other lots within the Dysart Commons shopping center. Other adjacent land uses are as follows:

- **SOUTH:** South of Thomas Road, undeveloped, vacant property, also part of the Palm Valley PAD, and also permitted uses in line with the C-1 (Neighborhood Commercial) zoning district. Recently approved for a Quik Trip Gas Station and Convenience Store.
- **WEST:** Estrella Mountain Community College (EMCC), an accredited college serving approximately 15,000 students per year, with a staff that includes approximately 300 academic faculty and 200 administrative personnel.

SUMMARY OF REQUEST:

Dependent upon approval of the requested PAD Amendment (Application PL-15-0076), Fry's Food Stores of Arizona is requesting approval of a Conditional Use Permit (CUP) to construct and operate a gas station with convenience store kiosk on Lot 3 of the Dysart Commons II subdivision, the corner parcel within the Dysart Commons Shopping Center located at the northeast corner of Dysart Road and Thomas Road. The proposed operation features seven dual-sided gasoline pumps covered by a 43'x126' canopy 19' in height, and a 232 square foot convenience kiosk (Exhibits E, F, G, and H). Gasoline and diesel fuel inventory is proposed to be stored in two underground tanks west of the proposed canopy.

Operation of the proposed fuel center is proposed for the hours of 5:00 a.m. and 11:00 p.m., concurrent with the hours of operation of some existing businesses in the Dysart Commons Shopping Center. During operating hours, the facility will be staffed by one or two employees. In accordance with Fire Department requirements, pay-at-the-pump service will not be permitted when the facility is unmanned.

The design of the canopy and kiosk features design elements and architectural elements compatible with Dysart Commons Shopping Center, including stone wainscoting and columns, a decorative cornice and a mix of brown, beige, and green earth tones. Additionally, the 3' wide stone-wrapped canopy columns are located to the outside of the fuel pumps, in order to screen the pumps from the perspective of Dysart Road, the more heavily traveled of the two adjacent streets. Outdoor merchandise display cabinets, from which convenience items such as food and beverages will be stocked, are designed to be integrated into the overall design of the center, featuring stone wrapping and complementary colors.

Vehicular ingress and egress to and from the proposed gas station is from any of six existing driveways serving the Dysart Commons Shopping Center, the two nearest being a right-in/right-out entrance from northbound Dysart Road and a right-in/right-out entrance from westbound Thomas Road directly adjacent to Lot 3. Full access is also available into/out-of the Dysart Commons site from Dysart Road to the north and Thomas Road to the east of Lot 3.

Pedestrian access into the site will be from a new, tree lined, stamped concrete sidewalk entering Lot 3 from Thomas Road that provides a connection to the proposed convenience kiosk and also

connects to the broader pedestrian network already in place. Pedestrian access from Thomas Road will also be available via the existing sidewalk improvements constructed during the initial development of the shopping center. Additionally, the developer is proposing to install a shaded pedestrian seating node at the intersection corner. The applicant is proposing adding a shrubs and groundcover adjacent to Dysart Road and Thomas Road to assist in the site beautification.

Two types of signs are proposed for the site. Four pan-channel button logo signs, each roughly 11 square feet in area, are to be mounted on the four canopy elevations. Two variable fuel price signs, six feet in height, 24 square feet in area, and featuring digital price displays, are proposed with a design matching the existing Dysart Commons monument signs. One fuel price sign will be located adjacent to each street frontage.

Proposed site lighting meets all City requirements and will not result in light trespass into the public right-of-way or adjacent developments. Additionally, though not required, the proposed canopy lighting will feature energy efficient LED technology.

PARTICIPATION:

The applicant conducted a neighborhood meeting to discuss the proposed PAD Amendment and Conditional Use Permit applications on Thursday, May 14th at 7:00 P.M. at Corte Sierra Elementary School, close to the subject development site. The meeting was advertised in the April 28, 2015 edition of the West Valley View. A notification sign was erected on the subject property on April 28, 2015. Additionally, 17 property owners within 500 feet of the subject property were notified of the meeting by letters sent by the applicant on April 28, 2015.

Not including the applicant, his representatives, and City staff, approximately nine members of the public attended the neighborhood meeting with 7 persons opting to sign-in (Exhibit J). Of the seven persons on the sign-in sheet, six indicated opposition to the proposals, with one person in support. The meeting started with a brief presentation on the proposed Fry's Fuel Center by the project applicant and his team, including a representative of Fry's. Primary topics for discussion included the general appropriateness of a gas station at this location, potential other locations for gas stations that would have less impact on the nearby neighborhoods, engagement with nearby existing businesses, redemption of Fry's Fuel points at non-Fry's Fuel Centers, maintenance of landscaping, concentration of gas stations in the area, timing of development, concerns over increased neighborhood traffic and safety, and gas stations attracting vagrancy. The full minutes of the meeting are included as Exhibit J. Following the neighborhood meeting, staff received three letters/emails regarding the proposal, one in support and two in opposition (Exhibit K).

Letters notifying nearby property owners of the June 18, 2015 Planning Commission meeting were mailed on June 2, 2015. Additionally, the sign was updated to include the time and date of this meeting on June 2, 2015. Lastly, a notice of the Planning Commission hearing was published in the West Valley View on June 2, 2015.

Letters notifying nearby property owners of this City Council meeting were mailed on July 2, 2015. The sign was updated to include the date, time, and location of the City Council meeting on June 30, 2015. Additionally, a notice of the City Council hearing was published in the West Valley View on June 30, 2015.

PLANNING COMMISSION ACTION:

The Planning Commission conducted public hearings on the PAD Amendment and CUP requests on June 18, 2015 (Exhibit L).

Commission had the following questions and comments:

- Chair Scibienski inquired into the durability of the fabric shade canopy proposed for the pedestrian seating area. The applicant responded that maintenance of the canopy would be the responsibility of Fry's.
- Chair Scibienski stated that he did not like the kiosk and outdoor merchandise cabinet components of the project, and questioned whether the cabinets would invite theft after hours. He stated that he believed this type of model made sense when located near a Fry's store, but a full service convenience store makes more sense in these types of locations. The applicant responded that Fry's focuses on fuel sales and the food and beverage sales are a minor component provided as a convenience to their customers. The applicant also noted that theft was not an issue at other locations, as the cabinets are designed to lock down after hours.
- Commissioner Kugler asked whether Thomas Road was identified as an arterial. Staff responded that Thomas Road was identified in the City's planning documents as an arterial, though it operates more similarly to a collector due to the lack of a connection over the Agua Fria River.
- Commissioner Kugler noted that he supports Fry's as a customer but that he was not in support of the proposed fuel center at this location, as gas stations are not marketable gateways into nearby subdivisions and a second gas station is not the highest and best use of land at the Dysart Road and Thomas Road intersection. Commissioner Kugler continued, stating that he believed the lack of symmetry between the approved QuikTrip and the proposed Fry's would undermine the definition of a master planned community.

Eight audience speaker cards were submitted to the clerk indicating opposition to the Fry's Fuel Center proposals. Of those eight persons in opposition, six spoke during the public hearing, indicating concerns including, but not limited to, the general incompatibility of gas station use with nearby neighborhoods, the lack of need for a second gas station at this intersection with the QuikTrip already approved, traffic safety, increased traffic on Santa Fe Trail, and the expectations of area residents that only lower-intensity uses would occur here. With the exception of the applicant team, no persons spoke in favor of the proposed request.

New petitions and letters were entered into the record at the Planning Commission meeting, as follows:

- 102 letters and a petition signed by 108 persons in support of the PAD Amendment and CUP requests (Exhibit M). Please note that there is overlap between the signed letters and petition (e.g. same person wrote letter and signed petition); the total number of persons that have indicated support is approximately 120.
- 136 signatures opposing the PAD Amendment and CUP requests on the grounds that a gas station use is not in the best interest of the community (Exhibit N).

The Commission voted 3-1 to recommend denial of the requested Conditional Use Permit.

ANALYSIS:

In order to grant a Conditional Use Permit, five findings must be met as outlined in Zoning Ordinance Section 109.B. The burden of proof is upon the applicant. Each finding is presented below along with staff's analysis.

1. That the proposed use (i) is consistent with the land-use designation set forth in the General Plan, (ii) will further the City's general guidelines and objectives for development of the area, as set forth in the General Plan and (iii) will be consistent with the desired character for the surrounding area.

i. The General Plan Land Use designation for this property is Local Commercial, a category that is primarily used for providing daily needs of goods and services to the residents residing within

the surrounding area as stated in the General Plan Land Use category description. The types of uses allowed in this category specifically for local residents may include: grocery stores, gas stations, neighborhood/retail services, and office and medical uses serving consumers residing in adjacent residential areas, which promotes a walkable community. The preferred locations are arterial intersections, although other locations may be deemed acceptable based on the merits of the project.

ii. The proposed site furthers a number of General Plan Land Use guidelines and objectives for development, including, but not limited to, ensuring adequate transitions/buffers between varying land use intensities (450+ feet separation is provided from nearest residential property line), upgrading pedestrian conditions (enhanced sidewalks and shaded seating node), and incorporating eco-friendly materials (LED lighting).

iii. The subject property is located within the boundaries of the North Avondale Specific Plan (NASP), which seeks to protect the existing character of the North Avondale Area by encouraging innovative yet compatible design that promotes the connectivity of the area, creates a "Sense of Place", and encourages future development in and around existing community assets such as the Estrella Mountain Community College. In addition to providing a service for residents of the nearby Corte Sierra, Rancho Santa Fe, and Las Palmeras West communities to the east, as well as for employees and students of Estrella Mountain Community College and other places of employment in the general vicinity, the proposed development will enhance the area's existing pedestrian network, complement the architecture of the surrounding Dysart Commons Shopping Center, and enrich the aesthetics of the intersection through significant landscaping improvements.

2. That the use will be (i) compatible with other adjacent and nearby land uses and (ii) will not be detrimental to (1) persons residing or working in the area, (2) adjacent property, (3) the neighborhood or (4) the public welfare in general.

i. The proposed site is the corner parcel within a master planned shopping center, Dysart Commons. Gas stations are frequently sited on corner parcels within similar shopping centers. As such, staff believes the gas station use is compatible with the existing retail and service uses within that center, future uses that would be allowed under the center's C-1 (Neighborhood Commercial) zoning, as well as other nearby uses, such as Estrella Mountain Community College and CVS Pharmacy.

ii. The site plan for the proposed use will comply with all Avondale zoning, traffic, engineering, fire safety, and building code requirements, and all state and federal environmental requirements pertaining to fuel stations. Additionally, the site is located over 450 feet from the nearest residential property line, ensuring that any light or noise generated by the proposed use will not negatively impact area residents.

3. That the site is adequate in size and shape to accommodate the proposed use, allow safe onsite circulation, and meet all required development standards including, but not limited to setbacks, parking, screening and landscaping.

i. The site is large enough to accommodate the proposed building and meet or exceed all development standards. All setbacks required for commercial development in the C-1 District are met by the proposed development plan.

All screening requirements are met or exceeded by the proposed development plans. Existing 3' parking lot screen walls will remain in place around the perimeter of the site. In addition, the fuel canopy columns are designed to screen pumps from the perspective of Dysart Road, and all accessory appurtenances, such as a water/air station, will be screened by decorative walls. Lastly, the proposed outdoor cabinets for display and sale of merchandise will be designed to be integrated into the overall architectural theme of the shopping center.

The CUP application may only be approved if the previous application for a PAD Amendment is approved.

Motion to DENY as recommended by the Planning Commission:

I move that the City Council reject the findings and **DENY** Application PL-15-0077, a request for a Conditional Use Permit for a gas station with convenience kiosk at the northeast corner of Dysart Road and Thomas Road, on Lot 3 of the Dysart Commons II subdivision.

Alternative Motion to APPROVE with recommended conditions of approval:

I move that the City Council accept the findings and **APPROVE** the Ordinance approving Application PL-15-0077, a request for a Conditional Use Permit for a gas station with convenience kiosk at the northeast corner of Dysart Road and Thomas Road, on Lot 3 of the Dysart Commons II subdivision, subject to the following three conditions of approval:

1. The use and development of the site shall conform to the Conditional Use Permit Narrative, Conceptual Site Plan, Conceptual Landscape Plan, Preliminary Canopy/Kiosk Elevations, and Conceptual Sign Plan, date stamped June 4, 2015 and attached as staff report Exhibits E, F, G, and H.
2. In accordance with Section 109 of the Zoning Ordinance, the Conditional Use Permit shall expire within two years from the date of approval if the use has not commenced.
3. Deliveries of fuel and merchandise are to take place only between the hours of 6:00 a.m. and 10:00 p.m.

ATTACHMENTS:

Description

[Exhibits A - N](#)

PROJECT MANAGER:

Ken Galica, Senior Planner (623) 333-4019

ITEM #5: PUBLIC HEARING: CONDITIONAL USE PERMIT FOR FRY'S FUEL CENTER (APPLICATION PL-15-0077)

Due to their size, the following attachments have been posted separately:

Exhibit A	General Plan Land Use Map http://www.avondale.org/DocumentCenter/View/36419
Exhibit B	Zoning Vicinity Map http://www.avondale.org/DocumentCenter/View/36420
Exhibit C	Aerial Photograph http://www.avondale.org/DocumentCenter/View/36421
Exhibit D	Summary of Related Facts http://www.avondale.org/DocumentCenter/View/36422
Exhibit E	Applicant's Conditional Use Permit Narrative http://www.avondale.org/DocumentCenter/View/36433
Exhibit F	Proposed Conceptual Site Plan http://www.avondale.org/DocumentCenter/View/36424
Exhibit G	Proposed Conceptual Landscape Plan http://www.avondale.org/DocumentCenter/View/36425
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Exhibit N	Petitions in Opposition to Proposal (Entered into record at June 18th PC Meeting) http://www.avondale.org/DocumentCenter/View/36432

The applicant is proposing landscaping that exceeds City requirements, supplementing the existing landscaping already in place around the perimeter of the site. This landscaping is proposed with the purpose of both beautifying the site and establishing a “Sense of Place” at this key entry point into the City of Avondale.

4. That the site has appropriate access to public streets with adequate capacity to carry the type and quantity of traffic generated by the proposed use.

i. The proposed development is located at the northeast corner of two arterial streets with adequate capacity to carry the traffic generated by the proposed use. Ingress/egress to the site will be provided by any of six existing driveway entrances to the Dysart Commons center, three from Dysart Road (1 full access, 2 right-in/right-out) and three from Thomas Road (2 full access, 1 right-in/right-out). In line with current City engineering requirements, a pork-chop will be added by the developer to the westernmost Thomas Road access, limiting that driveway to right-in/right-out only.

A full Traffic Impact Analysis (TIA) for the site was prepared and submitted with the proposed PAD amendment and the CUP. An independent traffic engineer has reviewed the TIA on the City’s behalf and agreed with the conclusion that the proposed use will not impact the level of service at the Dysart Road and Thomas Road intersection.

5. That adequate conditions have been incorporated into the approval to insure that any potential adverse effects will be mitigated.

i. Should the City Council seek to approve the proposal, three conditions of approval are recommended as listed in the alternate proposed motion. Recommended stipulation #1 is a standard stipulation requiring development and use of the site conform to the materials submitted by the applicant and attached as exhibits to this report. Recommended stipulation #2 is a standard stipulation noting that, in accordance with Zoning Ordinance protocol, the Conditional Use Permit will expire in two years from the date of approval if the use has not commenced operations. Recommended stipulation #3, limiting delivery hours of operation, is intended to reduce noise impacts during overnight hours and to ensure consistency with the proposed QuikTrip development, which included a similar stipulation.

FINDINGS:

1. The proposed land use meets the five required findings for a CUP as outlined in Section 108 of the Zoning Ordinance.
2. Approval of the CUP will result in a development compatible with the General Plan, the North Avondale Specific Plan, and existing commercial development in the area.
3. Approval of the CUP will not be detrimental to persons residing or working in the area, on adjacent properties in the neighborhood, or to the public welfare in general.

RECOMMENDATION:

On June 18, 2015, the Planning Commission **RECOMMENDED DENIAL** of application PL-15-0077, a request for Conditional Use Permit approval to develop and operate a gas station with convenience kiosk at the northeast corner of Dysart Road and Thomas Road.

PROPOSED MOTION:

Two motions are included below. The first, a motion to deny the requested CUP, is in keeping with the recommendation of the Planning Commission.

Should the City Council approve the proposal, a motion for approval, subject to three staff recommended stipulations, is also provided.