

**Tempe City Council
Formal Council Meeting
Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 East Fifth Street, Tempe, Arizona
Thursday, September 02, 2010
7:30 PM**

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

1. **INVOCATION - Vice Mayor Navarro**
2. **PLEDGE OF ALLEGIANCE**
3. **MINUTES - Councilmember Arredondo-Savage**
 - A. Approval of Council Meeting Minutes
 1. Formal Council Meeting - August 19, 2010
 2. Council Issue Review Session - August 19, 2010
 3. Council Executive Session - August 19, 2010
 4. City Council Summit - August 13 & 14, 2010
 - B. Acceptance of Board & Commission Meeting Minutes
 1. Committee for Youth, Families and Community - May 11, & August 2 2010
 2. Tardeada Advisory Board - June 14, 2010
 3. Historic Preservation Commission - July 8, 2010
 4. Development Review Commission - July 27, 2010
 5. Hearing Officer - August 3, 2010
 6. Special Events Task Force - August 24, 2010
 7. Tempe Fire Public Safety Personnel Retirement Board - June 10, 2010
 8. Tempe Police Public Safety Personnel Retirement Board - July 1, 2010
4. **REPORTS AND ANNOUNCEMENTS**
 - A. Mayor's Announcements
 1. **Adopt-A-Park**
 2. **Healing Field**
 - B. Manager's Announcements
5. **AGENDA**

All items listed on the agenda will be considered as a group and will be enacted with one motion by the City Council unless an item is removed for separate consideration. Members of the public may remove public hearing items for separate consideration. Public hearing items are designated by an asterisk (*). Councilmembers may remove any item for separate consideration.

Agenda items scheduled for Introduction/First Public Hearing will be heard, but will not be voted upon at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon tonight.

'q-j' indicates quasi-judicial items. The City Council sits as a quasi-judicial body when hearing variances. In this situation, the City Council must conduct itself as a court, not as a legislative body. Pre-meeting contact with the City Council on quasi-judicial matters is prohibited. Any materials or conversations concerning the item shall only be presented to the City Council at the scheduled public hearing.

Legal Advice: If necessary, the City Council may vote to adjourn to executive session for the purpose of obtaining legal advice from the Council's attorney on any matter listed on the agenda pursuant to A.R.S §38-431.03(A)(3).

A. Miscellaneous Items

- *A1. This is a public hearing to recommend the approval of a Series 12 restaurant liquor license for Tart Frozen Yogurt, LLC, dba Republic Ramen, 1301 East University Drive, #114-116

COMMENTS Reynaldo Cudilla Perez, Jr. is the Agent for this application
DOCUMENT NAME 20100902fsap01 Republic 122204 – LIQ LIC (0210-02)

- *A2. This is a public hearing to recommend the approval of a Series 12 restaurant liquor license for Mandalay Noodle World LLC, dba Mandalay Noodle World, 3401 South McClintock Drive

COMMENTS Thet Khine Oo is the Agent for this application
DOCUMENT NAME 20100902fsap03 Mandalay 123835 – LIQ LIC (0210-02)

B. Award of Bids/Contracts

- B1. Request award of a professional services contract with E Group Landscape Architecture/Environmental Design, Inc. for post-design and phase II construction administration for a multi-use path along the Cross-cut Canal.

COMMENTS Total cost for the professional services contract is \$123,821.70. One hundred percent (100%) of this project is federally funded by the American Reinvestment & Recovery Act (ARRA) and federal transportation enhancement funds.
DOCUMENT NAME 20100902PWDR04 TRANSPORTATION PLANNING (1101-01)
PROJECT NO. 6002441

- B2. Request approval of job order no. 9 with Quest Civil Constructors, Inc. for reclaimed water recharge wells nos. 2 and 3 at Ken McDonald Golf Course.

COMMENTS Total amount of job order no. 9 is \$65,820 and the project contingency amount is \$5,000.

DOCUMENT NAME 20100902PWDR05 ENGINEERING ADMINISTRATION (0803-02)
PROJECT NO. 3209301

- B3. Request approval to utilize a one-year State of Arizona contract with Dell for the purchase of desktop productivity, Microsoft Office, and server operating system software for the Information Technology Division

COMMENTS (AD050028-A3-010) Total value of this contract will not exceed \$250,000 during the one-year term.

DOCUMENT NAME 20100902fsts05 PURCHASES (1004-01)

- B4. Request approval to utilize a one-year State of Arizona contract with Ikon Office Solutions for the lease, installation and maintenance of multifunctional digital copiers/printers throughout the City on an as-needed basis.

COMMENTS (EPS060122-3) Total value of this contract will not exceed \$460,000 during the one-year term.

DOCUMENT NAME 20100902fsts04 PURCHASES (1004-01)

- B5. Request approval of a lease agreement between the City of Tempe and Maricopa County for the purpose of continuing the partnership for Head Start and Early Head Start services that are provided by the County's Human Services Department through its Head Start Zero-Five Program.

COMMENTS The previous agreement (C2001-88) with the Head Start program at the Westside Multigenerational Center is terming out. This agreement will continue the partnership between The City of Tempe and the Head Start developmental preschool program.

DOCUMENT NAME 20100902cssw01 COMMUNITY SERVICES ADMIN (0701-01)

- B6. Request approval of a one-year contract renewal with Stanley Convergent Security Solutions for security system purchase, installation and maintenance for the Public Works Department.

COMMENTS (T08-186-01) Total cost of this contract will not exceed \$150,000 during the one-year contract renewal beginning August 18, 2010.

DOCUMENT NAME 20100902fsta02 PURCHASES (1004-01)

- B7. Request approval of Tempe Experience Corps Affiliate Agreement between Experience Corps and the City of Tempe, to provide the Tempe Experience Corps program from September 1, 2010 to August 31, 2011

COMMENTS The Affiliate Agreement with Experience Corps, a non-profit organization, allows the City of Tempe to provide services in early literacy tutoring programs in Tempe elementary schools. All costs are covered through grant funds.

DOCUMENT NAME 20100902cskb02 COMMUNITY SERVICES ADMIN (0701-01)

- C. **Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action.**

- *C1. This is the introduction and first public hearing to amend Chapter 16 of the Tempe City Code relating to License, Privilege And Excise Taxes by amending Section 16-405 to reflect the implementation of Proposition 401 passed by the voters of Tempe on May 18, 2010; establishing a two-tenths of a percent (0.2%) tax rate increase; and establishing an effective date. The second public hearing is scheduled for September 16, 2010.

COMMENTS N/A
DOCUMENT NAME TCC CH 16 - LICENSES, TAXATION & MISC. BUS REGS, ETC. (0503-16) Ordinance No. 2010.33

- *C2. This is the introduction and first public hearing to authorize the Mayor to execute a Ground Lease and Agreement between the City and Clay and Chelsea Scott (dba Papago Ranch), and related documents, covering approximately 10 acres of real property owned by the City north of the Marina and Red Mountain Freeway.

COMMENTS The lease allows for the construction and operation of stable facilities providing trail rides, riding lessons and camps, equine care classes and special events on approximately 10 acres of city property.
DOCUMENT NAME 20100819cdnr01 RIO SALADO MASTER PLAN (112-07-03) Ordinance 2010.32.

- *C3. This is the introduction and first public hearing to amend Chapter 26 of the Tempe City Code relating to Police by amending Section 26-3; to amend Chapter 19 of the Tempe City code relating to Motor Vehicles and Traffic by amending Section 19-5; and Declaring the Existence of an Emergency. The second public hearing is scheduled for September 16, 2010.

COMMENTS The City recently contracted with DTC to provide downtown parking enforcement. This ordinance clarifies their authority under state law to conduct such enforcement.
DOCUMENT NAME TCC CH 26 – POLICE (0503-26) Ordinance No. 2010.34

D. Ordinances and Items for Second Hearing/Final Adoption

- *D1. This is the second and final public hearing to adopt an ordinance authorizing the granting of an electrical "Utility Easement" to Salt River Project by the City of Tempe.

COMMENTS This easement will enable Salt River Project to provide electrical power to operate lighting for the Rio Salado Restoration Project, Phase 3, located adjacent to the south bank of Tempe Town Lake.
DOCUMENT NAME 20100902PWWS01 GRANT OF EASEMENT (0904-02) ORDINANCE NO. 2010.30

- *D2. This is the second and final public hearing to adopt an ordinance authorizing the granting of an electrical "Utility Easement" to Salt River Project by the City of Tempe.

COMMENTS This easement will enable Salt River Project to provide electrical power to operate Well Site Number Nine, located at 1502 East Calle De Caballos.
DOCUMENT NAME 20100902PWWS02 GRANT OF EASEMENT (0904-02) ORDINANCE NO. 2010.29

- *D3. This is the second and final public hearing to adopt an ordinance authorizing the granting of an easement to Southwest Gas Corporation to install and maintain the facilities necessary to provide gas service to 1829 E. Apache Blvd.

COMMENTS This easement will enable Southwest Gas Corporation to provide gas service to 1829 E. Apache Blvd.
DOCUMENT NAME 20100902PWWS03 GRANT OF EASEMENT (0904-02)
ORDINANCE NO. 2010.31

E. Resolutions

- E1. Request approval of a resolution authorizing the Mayor to sign the Fourth Amendment to the Intergovernmental Agreement between the Maricopa County Library District and the City of Tempe for participation in the Reciprocal Borrowing Program.

COMMENTS It is estimated that the City will receive approximately \$185,000 in revenue for FY 2010/2011 at the reimbursement rate of \$28.50 per net non-resident borrower card issued for the one-year term of the Amendment.
DOCUMENT NAME 20100902cskb01 LIBRARY ADMINISTRATION (0704-01)
RESOLUTION NO. 2010.108

- E2. Request approval of a resolution authorizing the Mayor to execute the Southbank settlement agreement and related documents, which together amend the development agreement, provide for reconveyance of the property to the City, grant the developer an option to reacquire the property, and require certain option payments from developer and its affiliates.

COMMENTS Authorize the Mayor to execute a settlement agreement and all documents referenced therein, including with out limitation, the option agreement, and to take such further actions and execute such additional documents as may be necessary or appropriate to implement the settlement agreement.
DOCUMENT NAME 20100902cdsww01 REAL PROPERTY DISPOSITION (0902-21-01)
RESOLUTION NO. 2010.111

- E3. Request approval of a resolution approving a Memorandum of Understanding between the Tempe Firefighter's Unit and the City of Tempe effective July 1, 2010 – June 30, 2013 and authorizing its execution.

COMMENTS Resolution 2010.107 approves the execution of the Memorandum of Understanding (MOU) between the City and the Tempe Firefighter's Unit for the period July 1, 2010 – June 30, 2013.
DOCUMENT NAME 20100902hrrb02 FIRE FIGHTERS – MEET AND CONFER (0303-08-01) Resolution No. 2010.107

6. PUBLIC APPEARANCES

According to the Arizona Open Meeting Law, the City Council may only discuss matters listed on this agenda. Matters discussed by the public during public appearances cannot be discussed by the City Council unless they

are specifically listed on this agenda. There is a five-minute time limit per speaker. Speaker's visual aids or recorded tapes are not allowed.

Members of the public shall refrain from making personal, impertinent or slanderous remarks and from becoming boisterous while addressing the City Council or while attending the meeting. Unauthorized remarks from the audience, clapping, stomping of feet, yelling or any similar demonstrations are also prohibited. Violations of these rules may result in removal from the City Council meeting.

A. Scheduled

B. Unscheduled

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call (480) 350-2905 (voice) or (480) 350-2750 (TDD) to request an accommodation to participate in the City Council meeting.

**Agendas are also available at www.tempe.gov/clerk
Watch this meeting live on Cox cable channel 11 or www.tempe.gov/tempe11.
Video replay of this meeting is available the next day at www.tempe.gov/tempe11.**



Minutes Formal City Council Meeting August 19, 2010

Minutes of the Formal Council Meeting of August 19, 2010, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Municipal Building, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Hugh Hallman
Councilmember Robin Arredondo-Savage
Councilmember Mark W. Mitchell
Councilmember Corey D. Woods

Vice Mayor Joel Navarro
Councilmember Shana Ellis
Councilmember Onnie Shekerjian

STAFF PRESENT:

Charlie Meyer, City Manager
Jeff Kulaga, Assistant City Manager
Andrew Ching, City Attorney

Brigitta M. Kuiper, City Clerk
Andy Goh, Deputy Public Works Manager
Various Department Heads or their representatives

Mayor Hallman called the meeting to order at 7:45 p.m.

1. Councilmember Arredondo-Savage gave the invocation.
2. Mayor Hallman called upon a Boy Scout Troop to lead the audience in the **Pledge of Allegiance**.
3. **MINUTES**

A. Approval of Council Meeting Minutes

Motion by Councilmember Ellis to approve the following **COUNCIL MEETING MINUTES**; second by Councilmember Woods. Motion passed unanimously on a voice vote.

1. Formal Council Meeting - June 24, & July 1, 2010
2. Council Executive Session - June 24, 2010
3. Council Special Budget Meeting - June 24, 2010
4. Council Technology, Economic & Community Development Technology Forum - March 24, 2010
5. Council Technology, Economic & Community Development Committee - May 7, 2010
6. Council Housing Committee - June 15, 2010
7. Council Transportation Committee - June 15, 2010

B. Acceptance of Board & Commission Meeting Minutes

Motion by Councilmember Ellis to accept the following **COMMITTEE BOARD AND COMMISSION MEETING MINUTES**; second by Councilmember Arredondo-Savage. Motion passed unanimously on a voice vote.

1. Tardeada Advisory Board - February 8, 2010

2. Historical Museum Advisory Board - April 1, 2010
3. Enhanced Services Commission - April 14, 2010
4. Multi-modal Planning & Project Review Transportation Commission Subcommittee - April 14, 2010
5. Double Butte Cemetery Advisory Committee - April 21, 2010
6. Transit Fund Ad Hoc Committee - April 20, 2010
7. Transportation Commission - April 27, 2010
8. Housing Trust Fund Advisory Board - May 10, 2010
9. Public Art/Art in Private Development Municipal Arts Commission Subcommittee - May 12, & June 15, 2010
10. Municipal Arts Commission - May 12, 2010
11. Parks, Recreation and Golf Advisory Board - May 19, 2010
12. Grants Municipal Arts Commission Subcommittee - May 25, 2010
13. Hearing Officer - June 1 & 22, and July 6, & 20, 2010
14. Neighborhood Advisory Commission - June 5, 2010
15. Development Review Commission - June 8 & 22, and July 13, 2010
16. Tempe Police Public Safety Personnel Retirement Board - June 10, 2010
17. Historic Preservation Commission - June 10, 2010
18. Committee for Youth, Families and Community Town Hall Ad-Hoc Committee - June 17, & July 7, 2010
19. Tempe South Corridor Study - Ad Hoc Committee - June 23, & July 14, 2010
20. Special Events Task Force - July 13, 27 & August 10, 2010
21. Human Relations Commission - June 8, 2010

4. REPORTS AND ANNOUNCEMENTS

- A. Mayor's Announcements – None.
- B. Manager's Announcements – Charlie Meyer announced that he has been asked to serve as a City of Tempe representative on the Tempe Chamber of Commerce Board.

5. AGENDA

All items in these minutes identified with an asterisk (*) **are public hearing items**. All items listed on the agenda are approved with one council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Hallman announced consideration of the **AGENDA** items.

Motion by Vice Mayor Navarro to approve the Agenda with the exception of item 5B12 which was removed for separate consideration; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

- A1. Approved the Report of Claims Paid to be filed for audit for June 2010.

COMMENTS	N/A
DOCUMENT NAME	20100819fsnw01 ACCOUNTS PAYABLE (0208-01)

- A2. Approved the Report of Claims Paid to be filed for audit for July 2010

COMMENTS N/A
DOCUMENT NAME 20100819fsnw02 ACCOUNTS PAYABLE (0208-01)

- *A3. Held a public hearing and recommended the approval of a Series 12 restaurant continuation (Grill Bill) liquor license for Corner Pub Inc., dba Bogey's, 6463 South Rural Road.

COMMENTS Stephanie J Potter is the Agent for this application.
The Arizona Department of Liquor License and Control (ADOL) conducted an audit of this establishment to determine if they were meeting the minimum 40% of revenue being derived from food sales as required by statute for a Series 12 restaurant liquor license. Audit findings revealed this establishment requires a Series 12 restaurant continuation (Grill Bill) liquor license which allows for a minimum of 30% revenue being derived from food sales. There are only fifteen of these licenses issued each fiscal year. Applicants that are granted these licenses pay a \$30,000 fee to ADOL. A restaurant continuation (Grill Bill) liquor license allows the applicant to continue to sell liquor during the application review process.

DOCUMENT NAME 20100819fsap04 Bogey's 117054 – LIQ LIC (0210-02)

- *A4. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Canteen Tempe LLC, dba Canteen Modern Tequila Bar, 640 South Mill Avenue, #110.

COMMENTS Julian J Wright is the Agent for this application.
DOCUMENT NAME 20100819fsap01 Canteen 124024 – LIQ LIC (0210-02)

- *A5. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Luigi's Pizza LLC, dba Luigi's Pizza, 1805 East Elliot Road, #109.

COMMENTS Corey Thomas Holmes is the Agent for this application
DOCUMENT NAME 20100819fsap03 Luigi's 120664 – LIQ LIC (0210-02)

- *A6. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Brosenbrus LLC, dba Brosenbrus, 922 East Apache Boulevard, #105.

COMMENTS Bradley Allen Stewart is the Agent for this application.
DOCUMENT NAME 20100819fsap02 Brosenbrus 123912 – LIQ LIC (0210-02)

- A7. Approved a database and infrastructure management support expenditure with Public Safety Systems Incorporated (PSSI) for the Police Department's Computer Aided Dispatch system and the Incident/Crime Information system.

COMMENTS (Sole Source #IT09-037-004) Total cost shall not exceed \$84,000.
DOCUMENT NAME 20100819fsts07 PURCHASES (1004-01)

- A8. Approved an amended subdivision plat for Southern Plaza 2nd Amended located at 620 East Southern Avenue.

COMMENTS Request for SOUTHERN PLAZA 2ND AMENDED (PL090107) (VERUS-RS, LLC and Wal-Mart Stores, Inc. property owners;

Merestone Land Survey, applicant) for a subdivision plat located at 620 East Southern Avenue in the PCC-1, Planned Commercial Center Neighborhood District. This request includes the following:

SBD10007 – Amended Subdivision Plat from two (2) lots to three (3) lots on 10.76 acres.

DOCUMENT NAME 20100819dsrl01 PLANNED DEVELOPMENT (0406)

The following condition of approval applies:

The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department on or before August 19, 2011. Failure to record the plat on or before August 19, 2011, one (1) year from the date of City Council approval, shall make the plat null and void.

A9. Approved a lot line adjustment for Agave Center Lots 7 & 8 located at 8945 South Harl Avenue.

COMMENTS Request for AGAVE CENTER LOTS 7 & 8 (PL100064) (MEPT Agave, LLC, property owner; David Evans & Assoc., applicant) for a subdivision plat located at 8945 South Harl Avenue in the GID, General Industrial District and PCC-1, Planned Commercial Center Neighborhood District. This request includes the following:

SBD10006 – Lot Line Adjustment for two (2) lots on approximately 7.2 acres.

DOCUMENT NAME 20100819dsrl02 PLANNED DEVELOPMENT (0406)

The following condition of approval applies:

The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department on or before August 19, 2011. Failure to record the plat on or before August 19, 2011, one (1) year from the date of City Council approval, shall make the plat null and void.

A10. Approved the Magellan Health Services of Arizona, Inc. Prevention Services grant for the provision of youth substance abuse prevention programs and coalition efforts to reduce underage drinking in Tempe. **(Contract #2010-166)**

COMMENTS The Magellan Health Services of Arizona grant awards to the City of Tempe \$136,748.00 in federal funds from July 1, 2010 through June 30, 2011. No matching funds are required from the City. Existing City staff will assist in administering the program within current budget allocations for fiscal year 2010-11.

DOCUMENT NAME 20100819cskb01EDUCATION-SERVICE PROJECTS (0606-01-02)

B. Award of Bids/Contracts

B1. Approved a one-year renewal of a contract with West Coast Arborists, Inc. for tree trimming services for the downtown trees as well as various City parks and facilities to be used by the Public Works Department.

- COMMENTS** (T09-041-01) Total cost of this renewal shall not exceed \$200,000 during the one-year contract period beginning October 17, 2010.
DOCUMENT NAME 20100819fslg02 (PURCHASES 1004-01)
- B2. Approved the expenditure of funds under the existing Intergovernmental Agreement with the City of Phoenix Fire Department for firefighter medical and physical exams for the fiscal year 2010/2011.
- COMMENTS** (C97-179) Total expenditure of funds for fiscal year 2010/2011 shall not exceed \$125,000.
DOCUMENT NAME 20100819fslg04 PURCHASES (1004-01)
- B3. Approved of a one-year contract renewal with Utility Service, Co., Inc. for the maintenance and repair of water reservoir tanks for the Public Works Water Utilities Division.
- COMMENTS** (T01-052-01) Total value of this renewal shall not exceed \$85,000 during this one-year contract period.
DOCUMENT NAME 20100819fst06 (PURCHASES 1004-01)
- B4. Approved a one-year renewal of contracts with Phoenix Pumps, Inc. and Weber Group L.C. for the maintenance, repair and purchase of large capacity vertical turbine pumps for the Public Works Water Utilities Division.
- COMMENTS** (WUD08-187-01 and 02) Total combined value of this renewal shall not exceed \$400,000 during the one-year contract period.
DOCUMENT NAME 20100819fst08 PURCHASES (1004-01)
- B5. Approved the ratification for the use of a State of Arizona contract with Midway Chevrolet for the purchase of a service truck to be use by the Public Works Department to service fresh water lift and booster stations.
- COMMENTS** (SCC0900001) Total cost of this purchase is \$57,642.39.
DOCUMENT NAME 20100819fsta12 PURCHASES (1004-01)
- B6. Approved the utilization of a one-year State of Arizona contract with Goodyear Tire and Rubber Company for the purchase of Goodyear tires and tubes. Purchases will be made through an authorized Goodyear dealer, currently Purcell Western States.
- COMMENTS** (AD040531) The total value of this contract will not exceed \$100,000.
DOCUMENT NAME 20100819fsta09 PURCHASES (1004-01)
- B7. Approved the utilization of a three-year Maricopa County cooperative contract with Conduit Language Specialists for the purchase of monitoring and transcription services to be used by the Police Department and be paid for using federal and state crime prevention funds
- COMMENTS** (Maricopa County Contract 09-125) Total amount not to exceed \$1,500,000 over the three-year term of agreement.
DOCUMENT NAME 20100819fsmg05 PURCHASES (1004-01)

- B8. Approved the utilization of a one-year City of Tucson/National Intergovernmental Purchasing Alliance contract with Toter, Inc. for the purchase of 95-gallon residential refuse and recycling containers for use by the Public Works Department.

COMMENTS (083008-01 City of Tucson) The total value of this contract will not exceed \$125,000.

DOCUMENT NAME 20100819fsta10 PURCHASES (1004-01)

- B9. Awarded a one-year contract with four, one-year renewal options with First Data Government Solutions, LP for the purchase, implementation and annual maintenance of an Interactive Voice Response/Interactive Web Response System for the Customer Services Division. This is a bond funded project on the approved Capital Improvement Program (CIP) project list.

COMMENTS (RFP10-137) Total cost of this contract will not exceed \$400,000 for the first year of this agreement.

DOCUMENT NAME 20100819fst14 PURCHASES (1004-001)

- B10. Awarded a contract to Norwood Equipment, Inc. for the purchase of two (2) hook lift type emergency response storage units for use by the Fire Department. **(Contract #2010-167)**

COMMENTS (RFP11-018) Total value of this contract will not exceed \$55,000.

DOCUMENT NAME 20100819fsta15 PURCHASES (1004-01)

- B11. Approved the renewal of a Facility Use Agreement between Tempe School District No. 3 and the City of Tempe Kid Zone Enrichment Program for the before school, after school, breaks (fall, winter and spring) and summer facilities for the Kid Zone Enrichment Program from August 1, 2010 to July 31, 2011. **(Contract #2010-168)**

COMMENTS Total cost shall not exceed \$38,295.00

DOCUMENT NAME 20100819cskb03 COMMUNITY SERVICES ADMIN (0701-01)

- B12. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.**

Request award of a construction manager at risk construction services contract with Sundt Construction, Inc., **(Contract #2010-169)**, a construction management contract with Wilson Engineers, L.L.C. **(Contract #2010-170)**, and a materials testing and inspection services contract with Ninyo & Moore Geotechnical Consultants, Inc. **(Contract #2010-171)** for improvements to the South Tempe Water Treatment Plant - GMP 2. This is a bond-funded project on the approved CIP water utilities project list.

- B13. Approved a Sole Source contract with TSC America, DBA TATA American International for the City's business/privilege tax software system upgrade, used by the Tax and License Division of the Financial and Technology Department. This is a bond funded project on the approved Capital Improvement Program (CIP) project list. **(Contract #2010-172)**

COMMENTS (Sole Source IT10-162-01) Total amount of the contract shall not exceed \$375,000.

DOCUMENT NAME 20100819fst13 (PURCHASES 1004-01)

- B14. Awarded a contract with MGT of America, Inc., to conduct a detention facility review for the Police Department. **(Contract #2010-173)**

COMMENTS (RFP #10-130) Total amount not to exceed \$74,405.00.
DOCUMENT NAME 20100819fsmg11 PURCHASES (1004-01)

C. **Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action.**

- *C1. Introduced and held the first public hearing to adopt an ordinance authorizing the granting of an electrical "Utility Easement" to Salt River Project by the City of Tempe. The second public hearing is scheduled for September 2, 2010.

COMMENTS This easement will enable Salt River Project to provide electrical power to operate lighting for the Rio Salado Restoration Project, Phase 3, located adjacent to the south bank of Tempe Town Lake.
DOCUMENT NAME 20100819PWWS06 GRANT OF EASEMENT (0904-02)
ORDINANCE NO. 2010.30

- *C2. Introduced and held the first public hearing to adopt an ordinance authorizing the granting of an electrical "Utility Easement" to Salt River Project by the City of Tempe. The second public hearing is scheduled for September 2, 2010.

COMMENTS This easement will enable Salt River Project to provide electrical power to operate Well Site Number Nine, located at 1502 East Calle De Caballos.
DOCUMENT NAME 20100819PWWS07 GRANT OF EASEMENT (0904-02)
ORDINANCE NO. 2010.29

- *C3. Introduced and held the first public hearing to adopt an ordinance authorizing the granting of an easement to Southwest Gas Corporation to install and maintain the facilities necessary to provide gas service to 1829 E. Apache Blvd. The second public hearing is scheduled for September 2, 2010.

COMMENTS This easement will enable Southwest Gas Corporation to provide gas service to 1831 E. Apache Blvd.
DOCUMENT NAME 20100819PWWS08 GRANT OF EASEMENT (0904-02)
ORDINANCE NO. 2010.31

D. **Ordinances and Items for Second Hearing/Final Adoption**

- *D1. Held the second and final public hearing and adopted **ORDINANCE NO. 2010.21** authorizing the abandonment of a 3' wide utility easement on Lot 136 of Circle G Ranches 4 Unit 3 Subdivision.

COMMENTS This request is part of a proposed re-plat of Lot 136.
DOCUMENT NAME 20100819PWWS01 ABANDONMENT (0901) Ordinance No. 2010.21

- *D2. Held the second and final public hearing and adopted **ORDINANCE NO. 2010.25** authorizing the abandonment of all Water Lines and Water Line Easements within Lot 1 of the "Galleria

Palms" Subdivision (located at 1600 West La Jolla Drive).

COMMENTS This request is part of a re-plat of Lot 1 of the Galleria Palms Subdivision.
DOCUMENT NAME 20100819PWWS02 ABANDONMENT (0901) Ordinance No. 2010.25

- *D3. Held the second and final public hearing and adopted **ORDINANCE NO. 2010.26** authorizing the abandonment of all Water Line Easements lying within Lot Two of Emerald Phase II and III (located at 8515 East Emerald Drive).

COMMENTS This is part of a re-plat currently under review by the City for Emerald Phase II and III.
DOCUMENT NAME 20100819PWWS03 ABANDONMENT (0901) Ordinance No. 2010.26

- *D4. Held the second and final public hearing and adopted **ORDINANCE NO. 2010.23** authorizing the abandonment of a construction and maintenance easement located at 1305 West 23rd Street.

COMMENTS This request completes the abandonment process from previous water line easement abandonment.
DOCUMENT NAME 20100819PWWS04 ABANDONMENT (0901) Ordinance No. 2010.23

- *D5. Held the second and final public hearing and adopted **ORDINANCE NO. 2010.19**, a Planned Area Development Overlay for Quik Trip #1420 located at 1190 West Elliot Road.

COMMENTS Request for QUIK TRIP # 1420 (PL090493) (Rodney Loyd, Quik Trip Corporation, property owner; Juan Romero, Quik Trip Corporation, applicant) for a 5,014 sf. convenience store with a 6,190 sf. fuel sales canopy on a +/- 1.43 acre site located at 1190 West Elliot Road in the PCC-2, Planned Commercial Center General District and the SWOD, Southwest Tempe Overlay District. The request includes the following:
PAD10006 – (Ordinance No. 2010.19) Planned Area Development Overlay to establish development standard for rear yard building setback.
DOCUMENT NAME 20100819dskko01 PLANNED DEVELOPMENT (0406) Ordinance No. 2010.19

The following **PAD10006** conditions of approval apply:

- 1) A building permit shall be obtained on or before August 19, 2012 or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
- 2) The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, Owner(s) voluntarily waive(s) any right to claim compensation for diminution in property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than September 20, 2010 or the Planned Area Development Overlay approval shall be null and void.

- 3) The Planned Area Development Overlay document for Quik Trip # 1420 shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
- 4) The rear (north) building setback shall be minimum 10'-0" except a 6'-8" setback shall be allowed for the electrical service entrance section masonry enclosure at the west end of the north elevation.
- 5) There are six existing Phoenix dactylifera (Phoenix Date Palm) in line on the west of the site, adjacent to the Groves Power Center driveway. These are part of the landscape entrance feature for the Groves Power Center. Preserve, maintain, and as needed transplant these specimens out of way of the proposed Quik Trip driveway so the landscape entrance concept for the Groves Power Center is maintained. The retention of three "palm trees" in the southwest site corner, as indicated on the Preliminary Landscape Plan, sheet 4, is inadequate. Position the driveway to reduce need for transplant of Phoenix dactylifera as much as possible. Where a specimen in transplant dies or indicates probability of dying, replace with a minimum 25'-0" brown trunk Phoenix dactylifera.
- 6) Add four Cercidium Praecox (Palo brae) canopy trees of minimum 48" box installation size to the landscaped yard on the west of the site. The west side of the Groves Power Center entrance driveway has existing Palo brae; the four indicated in this condition are required to visually reinforce the landscape entrance concept for the center. Select upright specimens with a foliage canopy understory of minimum 7'-0" high so the thorns of these trees are not in close proximity with pedestrians.
- 7) At the reduced rear building setback yard, add a continuous line of Quercus Virginia 'Heritage' (Heritage Live Oak) canopy trees at 25'-0" on center on the north side of the store. This specimen is selected to match the existing Quercus found in the adjacent parking lot. Extend the line of trees to the adjacent driveways that are northeast and northwest of the store. Center the S.E.S. between two adjacent trees in the line to avoid interference between the tree line and access to the S.E.S. doors.

E. **Resolutions**

- E1. Approved **RESOLUTION NO. 2010.81** authorizing room fees and charges for the use of the Don Cassano Community Room, Tempe Transportation Center.

COMMENTS N/A
DOCUMENT NAME 20100701pwdj01 MISCELLANEOUS FEES (0210-05) Resolution No. 2010.81

- E2. Approved **RESOLUTION NO. 2010.99**, a Memorandum of Understanding between the Tempe Supervisors' Association and the City of Tempe July 1, 2010 - June 30, 2011 and authorizing its execution. (**Contract #2010-174**)

COMMENTS Resolution 2010.99 approves the execution of the Memorandum of Understanding (MOU) between the City and the Tempe Supervisors' Association (TSA) for the period July 1, 2010 – June 30, 2011.
DOCUMENT NAME 20100819hrrb01 SUPERVISORY EMPLOYEES – MEET AND CONFER (303-08-05) Resolution No. 2010.99

- E3. Approved **RESOLUTION NO. 2010.98** authorizing the Mayor to execute the Grant Agreement between the Arizona Criminal Justice Commission and the City of Tempe for the provision of CARE 7 victim assistance services during fiscal year 2010-2011. **(Contract #2010-175)**

COMMENTS The Arizona Criminal Justice Commission (ACJC) grants awards to the City of Tempe \$21,000.00 in state funds from July 1, 2010 through June 30, 2011. The required match of \$21,000 will be met through existing City staff in cost center 2485.

DOCUMENT NAME 20100819cskb02COMMUNITY SERVICES ADMIN (0701-01) RESOLUTION NO. 2010.98

- E4. Approved **RESOLUTION NO. 2010.100** authorizing the creation of a two year temporary benefitted position for a Building Inspector II for the implementation of the International Energy Code (IEC).

COMMENTS N/A

DOCUMENT NAME 20100819cddk01 POSITIONS AUTHORIZED (0302-01-00) Resolution No. 2010.100

- E5. Approved **RESOLUTION NO. 2010.106** to accept funding from the United States Department of Justice, Drug Enforcement Administration (DEA), for overtime for the police officer assigned to the DEA Task Force. **(Contract #2010-179)**

COMMENTS Funding not to exceed \$17,202.25.

DOCUMENT NAME 20100819pdsam02 POLICE DEPT ADMIN (6060200) Resolution No. 2010.106

- E6. Approved **RESOLUTION NO. 2010.101** authorizing an extension of the Intergovernmental Agreement between the City of Tempe and Kyrene School District No. 28 for one year, which details the agreed upon respective responsibilities of the School Resource Officer grant program.

COMMENTS The City will be reimbursed up to \$80,044 for FY2011 toward the cost of salary and benefits for one School Resource Officer.

DOCUMENT NAME 20100819pdsam01 POLICE DEPT ADMIN (6060200) Resolution No. 2010.101

- *E7. Held a public hearing and approved **RESOLUTION NO. 2010.95** revising the preference system for the selection of applicants to the Section 8 Housing Choice Voucher Program.

COMMENTS N/A

DOCUMENT NAME 20100819cdlc01 HOUSING AUTHORITY SECTION 8 ADMINISTRATIVE PLAN (0408-09) Resolution No. 2010.95

- E8. Approved **RESOLUTION NO. 2010.105** adopting the Maricopa County Community Wildfire Protection Plan 2010. **(Contract #2010-176)**

COMMENTS This is a countywide risk assessment that was developed in response to the Healthy Forests Restoration Act of 2003.

DOCUMENT NAME 20100819 fdmk02 Fire/Paramedic Service Admin (0605-01)
Resolution No. 2010.105

- E9. Approved **RESOLUTION NO. 2010.104** establishing an Applicant Agent for the City of Tempe and the Arizona Department of Emergency Management. **(Contract #2010-177)**

COMMENTS The Resolution names Fire Chief Mark Simmons as the Applicant Agent.

DOCUMENT NAME 20100819 fdmk01 Fire/Paramedic Service Admin (0605-01)
Resolution No. 2010.104

- E10. Approved **RESOLUTION NO. 2010.109** authorizing the submittal of a grant application for the design and construction of a shared-use path and underpass along the Rio Salado/Salt River Channel underneath the ADOT Loops 101 and 202 in Tempe, and authorizing the Mayor to execute such documents as may be necessary to evidence and implement the grant if awarded to the City and allocating funds for the City's portion of the project costs.

COMMENTS N/A

DOCUMENT NAME TRANSPORTATION PLANNING (1101-01) Resolution No.
2010.109

- E11. ***THIS ITEM WAS REMOVED FROM THE AGENDA; NO FURTHER ACTION WAS TAKEN.***
Resolution approving a Memorandum of Understanding between the Tempe Firefighter's Unit and the City of Tempe effective July 1, 2010 – June 30, 2013 and authorizing its execution.

COMMENTS Resolution 2010.107 approves the execution of the Memorandum of Understanding (MOU) between the City and the Tempe Firefighter's Unit for the period July 1, 2010 – June 30, 2013.

DOCUMENT NAME 20100819hrrb02 FIRE FIGHTERS – MEET AND CONFER (0303-08-01) Resolution No. 2010.107

- E12. Approved **RESOLUTION NO. 2010.103** amending the Intergovernmental Agreement for the Commercial Recreational Development of Indian Bend Wash Outlet between the City of Tempe and the Flood Control District of Maricopa County. **(Contract #87-85A)**

COMMENTS Amendment No. 1 clarifies the District's role in approving leases and lease modifications Tempe enters into as authorized by the Intergovernmental Agreement between the City and the Flood Control District for commercial recreational use of the District's Indian Bend Wash Outlet property.

DOCUMENT NAME 20100819wudcb04 FLOOD CONTROL ADMINISTRATION (0808-01) Resolution No. 2010.103

AGENDA ITEM REMOVED FOR SEPARATE CONSIDERATION:

- B12. Awarded a construction manager at risk construction services contract with Sundt Construction, Inc., **(Contract #2010-169)**, a construction management contract with Wilson Engineers, L.L.C. **(Contract #2010-170)**, and a materials testing and inspection services contract with Ninyo &

Moore Geotechnical Consultants, Inc. (**Contract #2010-171**) for improvements to the South Tempe Water Treatment Plant - GMP 2. This is a bond-funded project on the approved CIP water utilities project list.

COMMENTS	Total cost for the construction manager at risk (CMAR) construction services contract is \$23,617,462, total cost for the construction management contract is \$1,502,510, total cost for the materials testing and inspection services contract is \$122,000 and the amount of the project contingency is \$1,000,000.
DOCUMENT NAME	20100819PWDR05 SOUTH TEMPE WATER TREATMENT PLANT(0811-08) PROJECT NO. 3203211

Councilmember Shekerjian removed this item for separate consideration and asked staff to explain what this agenda item is for and how it will be funded.

Deputy Public Works Manger, Andy Goh, stated that this is a bond funded project that will be paid for by the Water Utility Enterprise Fund. This purpose of this project is to upgrade the south Tempe water treatment plant to meet new drinking water quality standards.

Mayor Hallman explained that there are various funds that have restrictions placed upon them. Some of those funds have bonding components and some funds are paid for by user fees. There is no comingling of these funds.

Councilmember Shekerjian clarified that this project will bring Tempe drinking water quality up to federally mandated standards.

Councilmember Shekerjian made a motion to approve agenda item 5B12; second by Councilmember Mitchell. Motion passed 7-0.

6. PUBLIC APPEARANCES

According to the Arizona Open Meeting Law, the City Council may only discuss matters listed on this agenda. Matters discussed by the public during public appearances cannot be discussed by the City Council unless they are specifically listed on this agenda. There is a five-minute time limit per speaker. Speaker's visual aids or recorded tapes are not allowed.

Members of the public shall refrain from making personal, impertinent or slanderous remarks and from becoming boisterous while addressing the City Council or while attending the meeting. Unauthorized remarks from the audience, clapping, stomping of feet, yelling or any similar demonstrations are also prohibited. Violations of these rules may result in removal from the City Council meeting.

A. Scheduled - None.

B. Unscheduled

Eleanor Holguin, Tempe, made the following comments:

- Stress from activity with the Tempe Police Department has contributed to her father's ill health
- Tempe has the highest violent crime, murder and hate crimes in the metro area
- There is a lack of integrity in the Tempe Police Department

7. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Arredondo-Savage

- Voiced her appreciation to staff and her colleagues on educating her on municipal operations and issues

Councilmember Shekerjian

- Thanked Dave Heck, Deputy Information Technology Manager, for assisting her in using an iPad to access her Council meeting material; Councilmember Woods and Charlie Meyer have also elected to access their Council packets electronically, saving staff time and resources
- Thanked Council colleagues for their contributions at the recent Summit

Vice Mayor Navarro

- New Town recently upgraded a home with energy efficient features and gifted it to a homeless woman with three children; thanked Tempe Community Council and Councilmembers Woods and Ellis for their work on housing issues
- National Driver Safety Institute (NDSI) – Cricket sponsored this event which teaches high school students safe driving concepts, such as not texting and driving

Councilmember Woods

- Commended the Police Department for recently making 40 arrests, including the seizure of drugs and cash and thanked his colleagues for their support of public safety

Councilmember Ellis

- Reminded the public to vote August 24, 2010
- Asked the public to be aware of students returning to school
- Tempe Sister City Program – wished Sister City student participants who were unable to attend a summer Council meeting safe travels home
- Welcomed Councilmember Arredondo-Savage to the Tempe City Council

Councilmember Mitchell

- Thanked Council colleagues for their contributions at the recent Summit
- Welcomed Councilmember Arredondo-Savage to the Tempe City Council

Mayor Hallman

- Welcomed Councilmember Arredondo-Savage to the Tempe City Council; this is the most diverse City Council that has ever served the community
- Thanked Council colleagues for their contributions at the recent Summit; outlining a community vision is the goal
- Crime rates are based on the number of people living in a community. Unique to Tempe are – Arizona State University population of 40,000 students, (not counted in population statistics), 60,000 non-residents work in Tempe, and tourism draws an additional 40,000-50,000 visitors. Accident rates in Tempe are higher due to this activity.
- Requested that the Police Department give a future Issue Review Session update on crime statistics and the context in which they occur.

The meeting was adjourned at 8:23 p.m.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of August 19, 2010, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk



Minutes City Council Issue Review Session August 19, 2010

Minutes of the Tempe City Council Issue Review Session held on Thursday, August 19, 2010, 6:00 p.m., in the City Council Chambers, Tempe City Hall, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Hugh Hallman
Councilmember Robin Arredondo-Savage
Councilmember Mark W. Mitchell
Councilmember Corey D. Woods

Vice Mayor Joel Navarro
Councilmember Shana Ellis
Councilmember Onnie Shekerjian

STAFF PRESENT:

Charlie Meyer, City Manager
Jeff Kulaga, Assistant City Manager
Andrew Ching, City Attorney
Brigitta M. Kuiper, City Clerk
Ken Jones, Finance and Technology Director

Michael Greene, Central Services Administrator
Greg Jordan, Transit Administrator
Chris Anaradian, Community Development Director
Mark Simmons, Fire Chief
Various Department Heads or their representatives

Mayor Hallman called the meeting to order at 6:01 p.m.

Call to the Audience

Ellen Poole, Tempe, stated that she is a resident and employed with an insurance company. She referred to an August 13, 2010 Fire Department memo which listed cities that have approved accident reimbursement fees. The memo made no reference to cities that have rejected imposing such fees, such as Denver. The memo also referenced only charging at-fault drivers. Since Arizona assesses accident fault percentages to drivers involved in accidents, this would not be a feasible method of assessing fees. Ms. Poole encouraged Council to not institute this fee as it could create a retaliatory tax war among cities in metro area.

Mayor Hallman stated that the City of Tempe is considered a pass thru city and has high accident rates. The cost to support public safety is borne by Tempe residents. Ms. Poole acknowledged this and voiced her support for the recently passed privilege sales tax increase. However, instituting a fee of this nature would not result in cooperation among surrounding jurisdictions.

Councilmember Arredondo-Savage asked if insurance companies cover accident reimbursement fees. Ms. Poole stated that the answer varies, depending upon the insurance coverage and legal review. Many insurance companies do not cover services. As more cities adopt these fees, there is less and less insurance coverage. Regardless of who is at fault, individuals that have accidents typically incur out of pocket costs, which is frustrating.

Councilmember Shekerjian asked if the insurance company Ms. Poole is affiliated with covers accident reimbursement fees. Ms. Poole replied that a legal analysis is required before an insurance company will cover those fees.

Mayor Hallman stated that it might be helpful if the legislature were to work in conjunction with the insurance industry to establish minimum standards to ensure that costs are covered. Currently, public safety costs are incurred by Tempe tax payers, which becomes expensive. Ms. Poole stated that insurance companies would likely be opposed to legislation imposing mandatory coverage, and it is unlikely that the legislature would address an issue of this nature.

Veolia Transit Contract Update

At the direction of Council, Michael Greene stated that staff met with Veolia representatives to achieve enhanced savings with this transit services vendor. The negotiation process was fair and the outcome is mutually beneficial to both parties.

Greg Jordan stated that the goal of this exercise was to:

- 1) Reduce the cost of providing service
- 2) Maximize the value of service reductions by redefining the majority of Veolia's fixed costs as variable
- 3) Contract rate (FY 2010-11) should be in line with the estimated regional average
- 4) Maintain a reasonably funded contract to ensure safe and reliable service as well as compliance with contract standards and performance requirements

Contract cost adjustments will be made in the following major areas of Veolia Transportation's operation (Figures are for FY 2010-11):

- Reduction to staffing in administration and management – \$974,695
- Reduction in fleet costs (e.g., fewer buses to insure, smaller support fleet) - \$183,600
- Modification of performance bond requirement - \$126,280
- Elimination of duplicative intelligent transportation system functions - \$50,029
- Reduction in bus detailing frequency (contract standards for cleanliness remain) - \$8,566
- Reduction from operational efficiencies and reductions to corporate overhead/profit - \$591,672
- Increase in average cost of bus operator wages because of layoff of least senior employees due to service reductions - \$1,013,088

Annualized net savings (FY 2010-11) - **\$921,754**

Pro-rated net savings for October 1, 2010 implementation - **\$691,315**

Councilmember Shekerjian thanked staff for renegotiating this contract. She referred to the contract section that pertains to maintenance of the east valley bus maintenance center. She noted that maintenance costs have significantly increased and questioned whether or not these terms were renegotiated. Mr. Jordan responded no, primarily because the maintenance is considered a function of City operations. From a Public Works perspective, this is a City-owned facility that must adhere to federally mandated requirements in terms of eligibility for sustainability-related federal grants. If staff were to renegotiate that portion of the contract, then contract costs would increase.

Councilmember Shekerjian noted that Veolia was awarded this contract based on their expertise and talent and asked if there were other portions of the contract that were not renegotiated. Mr. Jordan replied that staff renegotiated the contract elements that applied primarily to transit operations; however, if so directed, staff could approach Veolia on additional items. Councilmember Shekerjian expressed an interest in pursuing this course of action.

Vice Mayor Navarro thanked staff and Veolia for negotiating revised contract terms and improving relations. Councilmember Arredondo-Savage also thanked staff and Velia for their continued partnership on transit related projects.

Mayor Hallman noted that the total contract value is \$158 million, a sizeable financial commitment. Staff was asked why the fixed versus variable costs were not initially negotiated as part of the bid weighting system. Mr. Jordan responded that at the time this contract was procured, the intent was to increase service levels. In the future, staff intends to build in variable cost analysis and service expansion/reduction criteria during the procurement process and contract negotiations.

Mayor Hallman asked why the implementation date is October, and not sooner. Mr. Jordan stated that this implementation date was at the request of Veolia as they are in the process of eliminating staff positions. Although multiple jurisdictions will benefit from the renegotiated contract terms, Tempe's overall savings totals \$1.8 million. The transit structural deficit totals \$18 million, \$15 million of which will come from budget/service reductions with the remaining \$3 million to be recouped from an anticipated increase in privilege sales tax revenues.

League of Arizona Cities and Towns (LACT) Proposed Resolution Recommendations

Mayor Hallman stated that the League of Arizona Cities and Towns is a combination of the 90 cities and towns in Arizona that come together to be represented by LACT. Councilmember Mitchell represents the City of Tempe on legislative issues. The purpose of this discussion is to get the Council's position on proposed LACT resolutions.

Jeff Kulaga reported that LACT has prepared approximately 25 resolutions covering issues ranging from intoxication laws to state shared revenues, as well as a municipal policy statement. Staff has reviewed the resolutions and made recommendations to Council.

Mayor Hallman read the resolution titles to solicit Council input. He questioned why staff was in opposition of the LACT recommendation to repeal or amend ARS (Arizona Revised Statutes) Section 36-2031, regarding public intoxication, which would authorize local jurisdictions to publicize and enforce a constitutionally sufficient ordinance governing public intoxication. Mr. Kulaga explained that the current ARS language has been fine tuned and serves the City of Tempe well.

Mayor Hallman questioned why staff was recommending a neutral position to urge the Arizona Congressional Delegation to oppose federal legislation that would place a mandate on local governments to provide collective bargaining. Not opposing this could be viewed as a willingness to relinquish local control, in support of a federal mandate. Historically, it has been the position of Tempe to oppose state and federal mandates. Mr. Kulaga acknowledged that this resolution may be the most controversial topic of all the resolutions being proposed. Tempe's two major tenants are 1) to protect and preserve local control for local governing bodies, and 2) to protect state shared revenues and resources. Mr. Kulaga stated that since Tempe already has a meet and confer process, this resolution would have little or no impact on Tempe. Conversely, it would have a substantial impact on jurisdictions that do not currently have meet and confer processes. Councilmember Woods voiced his support for taking a neutral stance at this time. Councilmember Shekerjian stated that maintaining local control is important, therefore her position was to oppose this resolution. Because this resolution has no impact upon Tempe's process, Councilmember Ellis agreed with taking a neutral stance. Mayor Hallman voiced his preference to oppose this resolution because of the 'mandate' language, however given the Council sentiments, a neutral stance would remain.

Mayor Hallman voiced his support of the LACT recommendation to allow greater flexibility in annexing county islands, given the fact that Tempe currently has approximately 8 county islands. County islands pose a challenge to public safety.

Mr. Kulaga pointed out two significant recommendations being proposed by the LACT staff, with recommended support from Tempe: 1) protect and defend the Model City Tax Code and 2) support reasonable state revenue reform. The primary reason for these two resolutions is because the two issues go hand in hand. Tempe officials would like to be included in discussions regarding taxation related issues.

Mayor Hallman voiced his support in opposing the standardization of political signage, as it adversely impacts local control.

Budget Balancing Plan for Rio Salado Fund

Chris Anaradian reported that the recurring structural deficit for the Rio Salado/ Community Facilities District (CFD) Fund is \$1.5 million over the next two years. Staff will be returning to Council on programmatic and fee-related issues. The overall plan

consists of 20% revenue generation and 80% of expenditure reductions. Fee recommendations would be brought to Council for consideration.

Mayor Hallman stated that the Tempe Beach Park is unique in that a Community Facilities District (CFD) has been created to fund the maintenance of a portion of park amenities. This makes accounting and coordination of upkeep a challenge. The goal of this plan is to create a sustainable fiscal model, easing the administrative burden that exists.

Ken Jones explained that the CFD will be maintained as a legally established zone. The CFD accounts for how bonds are paid. Enhanced services will continue to be provided to the CFD area, however maintenance will be administratively handled similarly to how other parks in Tempe are maintained. Maintenance costs will be charged back to the CFD to account for that activity.

Vice Mayor Navarro asked if billboard revenues are being used to fund programs. Mr. Anaradian responded that there is a recurring budget amount of \$36,000 that Council has yet to dedicate funding. Mr. Jones added that the staff expenditure reduction recommendations are firm, however the revenue generating suggestions are conceptual in nature. Councilmember Ellis stated that it would be helpful to receive existing fee structures in conjunction with proposed revenue generating fees when staff returns to Council. Mr. Jones added that a reasonable approach has been taken in estimating program revenue enhancement suggestions.

Councilmember Mitchell cautioned staff about the potential adverse impact that program reductions could have on special events.

Mayor Hallman stated that staff should move forward with the Rio Salado budget balancing plan as presented; however, items such as fee adjustments should be brought to Council for consideration.

Update on Accident Reimbursement

At the June 24, 2010 Issue Review Session, Fire Department staff was asked to provide Council with additional information pertaining to accident reimbursement fee programs. Staff has not yet received feedback from the insurance industry regarding this topic. With the administrative assistance of a third party vendor, staff is confident that this program could be implemented in 60-90 days. This program compliments the Fire Department's innovative ways of exploring financial diversity in managing costs and services. Tempe has twice the per capita amount of accidents than surrounding jurisdictions, which impacts response times and strains resources. Staff is seeking Council support to move forward with a Request for Proposals (RFP).

Councilmember Shekerjian asked Mr. Simmons if the Fire Department had a revenue generating alternative to this proposal. Mr. Simmons stated that this revenue was to be placed in the General Fund, therefore he would work with the City Manager to seek alternative revenue opportunities, should Council decide not to pursue this recommendation. Charlie Meyer explained that the Fire Department originally included this revenue enhancement as part of their recent budget program, however he moved the savings to be a part of the citywide solution. Should the Council not approve this recommendation, the Fire Department budget would be the first examined to absorb this revenue shortfall and if that is not feasible, then it would expand to citywide exploration.

Mayor Hallman voiced his support for the concept, however imposing fees based on residency may pose a legal challenge. Based on the fact that feedback from the insurance industry is pending, Mayor Hallman suggested that this item be brought back to the City Council Issue Review Session on September 2, 2010.

In the event that an insurance company does not reimburse their customer for this fee, Councilmember Woods voiced concern about the possibility of non-residents withdrawing their support of Tempe businesses and taint their perception of Tempe.

Councilmember Arredondo-Savage commended staff for their creative revenue generating ideas that this proposal represents. However, this concept poses long term financial ramifications to citizens; eventually they will end up paying the fee via increased

insurance premiums. Imposing this fee may also give Tempe the appearance of being an unfriendly city, which is of significant concern. Another area of concern is how these fees will be assessed to at-fault individuals and how those costs will be determined. It would be helpful for staff to conduct additional research and to consult with the insurance industry. Staff should also provide additional revenue generating suggestions.

Councilmember Mitchell stated that the staff report consisted of data from cities that Tempe does not typically use as benchmarks. This revenue generating concept may not be viewed as working with the business community and the Tempe Chamber of Commerce. It is important to get options from management on how the \$200,000 budget shortfall will be addressed.

Vice Mayor Navarro stated that the staff report indicated that Dallas, Texas, instituted this fee, which is not comparable to Tempe. This fee places an added financial burden to visitors and residents. Nevertheless, creative ideas are welcome and appreciated.

Councilmember Shekerjian voiced interest in discussing budget cutting offsets to make up for the \$200,000 shortfall. Mayor Hallman stated that the budget exercise recently undertaken would be the resource where the next budget cut comes from.

Councilmember Ellis asked if a neighboring jurisdiction responded to an emergency in Tempe, would that jurisdiction be charging this fee to the individual responsible for the accident? Mr. Simmons replied that when automatic aid occurs the guidelines of the City in which the aid occurs are typically followed. If the information for the accident participant is not in the Tempe database, then staff would not be able to bill that fee. Vice Mayor Navarro stated that it is a difficult process to bill other jurisdictions for fire services.

Councilmember Mitchell asked the City Manager to provide creative ways to recover the \$200,000, in addition to the budget balancing list of items previously approved by Council. Mr. Meyer stated that there is the option of working with the employee vacancy pool of positions. Currently, vacant positions are being preserved, but not filled. The cost savings from that is \$700,000. One problem with this approach is that there is one workgroup that is bearing an unequal burden as a result of not filling vacant positions. Management would eventually like to be able to fund the positions that have been authorized. Management will be looking at the yellow and red budget cutting categories for cost cutting options.

Councilmember Woods talked about the importance of preserving jobs. Mr. Simmons was acknowledged for bringing forward a creative revenue enhancement idea.

Mr. Meyer stated that department directors have been charged with the task of ensuring that the City is positioned to account for the \$8 million budget shortfall that will exist when the privilege sales tax increase expires in four years. The goal is to avoid having to make substantial cutbacks when the sales tax is rescinded.

Mayor Hallman stated that additional information from the private sector, insurance industry and ambulance service providers would be helpful in making a decision on this recommendation. Ambulance service providers have extensive billing systems, which should be included in this analysis. The issue of assigning a percentage of fault is an additional area of administration in question. Staff was directed to provide a follow up briefing at the September 2, 2010 Issue Review Session with additional information from the insurance industry and ambulance service vendors.

Formal Council Agenda Items

None.

Future Agenda Items

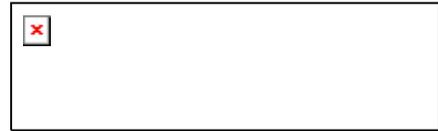
None.

Mayor's Announcements/Manager's Announcements

None.

The meeting was adjourned at 7:08 p.m.

Brigitta M. Kuiper, City Clerk



Minutes City Council Summit August 13, 2010 and August 14, 2010

Minutes of the City Council Summit Meeting of Friday, August 13, 2010 held at 11:30 a.m. at the Arizona Historical Museum, 1300 North College Avenue, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Hugh Hallman
Councilmember Robin Arredondo-Savage
Councilmember Mark W. Mitchell
Councilmember Corey D. Woods

Vice Mayor Joel Navarro
Councilmember Shana Ellis
Councilmember Onnie Shekerjian

STAFF PRESENT:

Charlie Meyer, City Manager
Jeff Kulaga, Assistant City Manager
Andrew Ching, City Attorney

Brigitta Kuiper, City Clerk
Gretchen Maynard, Organizational Development Administrator

The Mayor and City Council gathered for lunch at 11:30 a.m. Mayor Hallman called the meeting to order at 12:30 pm.

1. Review Open Meeting Law / Ethics / Agenda

Brigitta Kuiper distributed a publication entitled "You as a Public Official" published by the League of Arizona Cities and Towns (League). The publication, designed specifically for elected officials, includes information concerning open meeting law, conflict of interests, public records, and other related topics. The basic principal behind the open meeting law is that the operation of government is of public concern; therefore the public's business should be conducted in public. The one exception to the law is executive sessions, which are not conducted in public.

There are four open meeting law requirements:

- 1) *Meeting notice* (date/time/location) – Tempe posts meeting agendas on its website and two posting boards. The League also posts notices and links to city/town agendas on their website.
- 2) *Agenda content* – items for discussion must be listed on agendas and only those items may be discussed.
- 3) *Posting agendas* – must be posted a minimum of 24-hours in advance of the meeting time.
- 4) *Posting minutes* – must be posted within two days of Council approval. Minutes may be used in lieu of a legal action summary which must be posted within three days of the Council meeting; subcommittee and advisory committee minutes must be posted within ten days. Consensus reports and DVD recordings may also be used as the legal action summary.

Ms. Kuiper stated that preparing accurate and complete minutes is essential. Staff is being trained on minute content (key points and decisions) and the importance of remaining objective and consistent. Minutes are a critical element to complying with the open meeting law.

Ms. Kuiper added that the open meeting law also pertains to e-mail communications. There are penalties for open meeting law violations including fines and up to removal from public office.

Mayor Hallman voiced his desire to minimize changes to Council agendas so that Councilmembers have adequate time to review materials prior to meetings. He referred to a July 21, 2010 memo prepared by the City Clerk that outlined the revisions to Council agendas that had occurred over the prior 90-day period. Mayor Hallman stated that he will work with his colleagues to improve the turn around time for making board and commission appointments. Maintaining a quorum for some boards and commission is a point of concern. Ms. Kuiper noted that in an effort to assist staff, she has prepared a calendar that outlines the deadlines/timelines for submitting Council materials for the agenda. This information has been conveyed to department heads and institutes citywide standards for deadlines and processes.

Mayor Hallman asked that the City Clerk clearly articulate the nature of the revisions to the agenda materials when Council meeting packets are revised. Council agendas and meeting packets are electronically posted on Fridays by noon. For Councilmembers that have chosen to electronically access their Council meeting materials, there is an electronic drop box feature that allows access to agendas and confidential materials. Councilmember Shekerjian requested that notification of revisions be given to those Councilmembers that access the information electronically.

Councilmember Arredondo-Savage asked if consideration had been given to posting the revised agenda on Tuesday, versus the current practice of Wednesday. City Councilmembers discussed the need for revisions to Council agendas and the need to develop standards to determine whether a requested change is compelling enough to warrant a revision and re-posting. There are times when agenda revisions are necessary. Andrew Ching suggested that if an agenda item is substantially complete, it be included on the agenda as a place holder if the remainder of the materials will be complete in time for agenda revisions and reposting. Councilmembers could review the majority of the agenda item after the agenda is posted on Friday with only the specific revisions/modifications left to review when the agenda is revised and reposted. Councilmembers discussed and agreed upon the process for revising the agendas, as follows:

- Council meeting agendas will be posted by noon on the Friday prior to the meeting.
- Revisions may occur between Friday at noon and Tuesday at noon. If so, the City Clerk's office will post the revised agenda(s) no later than 5 p.m. and deliver paper revisions and electronic notification to Councilmembers. Revisions will be clearly documented on the cover sheet.
- Revisions requested by staff that occur after Tuesday at noon will be referred to the City Manager and City Attorney for review and approval. If approved, the agenda be revised and re-posted.
- Revisions requested by Councilmembers that occur after Tuesday at noon will be referred to the Mayor for approval. If the Mayor does not deem the matter to be of a compelling nature, the Councilmember may seek the support of one of his/her colleagues to place the item on the agenda. Two of the three members in support of the revision have approval authority.
- Agenda place holders will be used for situations where the agenda material is substantially complete and it is anticipated to be fully complete by Tuesday at noon.
- The City Clerk will monitor the revision process and report back to City Council in six months.

Councilmembers discussed the need to maintain an environment of professionalism among colleagues as recent discussions have been challenging, yet productive. In response to a question from Mayor Hallman, Councilmembers discussed the importance in complying with the open meeting law. Individually, Councilmembers take measures to ensure open meeting laws are not compromised.

Charlie Meyer asked Councilmembers for feedback on the effectiveness/efficiency of the electronic Council meeting packets prior to and during Council meetings. Concerning the agenda, staff is currently working on a one page contract summary worksheet which will contain all relevant data associated with a contract. This document could potentially replace lengthy contracts in the Council packets, which are primarily boiler plate language. An electronic link to the entire contract could be included if Councilmembers choose to access that document. Councilmember Shekerjian noted that large documents take longer to download using the iPad and suggested that larger documents be maintained separately from the staff summary reports or contract summary worksheets. She asked staff to contact the National League of Cities to find out more information about alternatives to using paper to convey information.

Andrew Ching provided a brief overview of the open meeting law. He cited examples of situations for discussion purposes. The state statute is broad enough that the open meeting law could be breached by watching a Council meeting on television, in the event that multiple Councilmembers are also watching, thus creating a quorum. Social gatherings and press conferences also pose potential open meeting law violations. These types of gatherings are publicly posted via the Council Calendar which provides the public with notification that a quorum of Council may be present. If a meeting is to be held, posting an agenda with specific items for discussion is required.

Mr. Ching added that an emerging area of open meeting law concern is social media use by elected officials. Councilmembers discussed the use of social media such as Facebook and Twitter. Mayor Hallman added that topics that fall within the purview of "future Council discussions" should also be considered in accordance with the open meeting law. When using e-mail, a "reply to all" could be a violation of the open meeting law. Perception is important as well when a quorum of Council is seen together. Mr. Ching encouraged the Mayor and Councilmembers to self police by avoiding having conversations that may eventually evolve into official city business. Discussions continued about the applicability of the open meeting law to boards and commissions and Council committees. For Council Committees, the two Councilmembers appointed by the Mayor cannot discuss issues as they constitute a quorum of the Committee. This presents difficulties for Councilmembers who are working on a particular issue. Councilmembers agreed that setting high standards to comply with the open meeting law is important.

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The Meeting recessed at 1:55 p.m. and reconvened at 2:05 p.m. with all Councilmembers present.

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2. City Overview / Personnel Update

Charlie Meyer distributed and reviewed updated department organizational charts. The goal of organizational restructuring was to create a maximum of five layers of supervision throughout the organization: 1) department director, 2) deputy director, 3) managers, 4) direct supervisors, and 5) line employees. There are some exceptions to the five layers; however, previously there were up to eight levels of supervision in some departments. A few positions remain vacant as he has received community input regarding the recruitment process and a desire to have all job recruitments open to the public.

Mr. Meyer detailed the department head and deputy position assignments. There are seven department directors that report to the City Manager. The remaining city office managers report to Jeff Kulaga. Mr. Meyer noted the following:

- The Information Technology Division (IT) is shifting to a more global view of conducting business. Vacant personnel positions in IT will remain unfilled until their restructuring has been completed.
- Combining the Community Development and Development Services Departments will result in operational efficiencies. Challenges remain in the Engineering project review process; structural changes to the organization may be necessary.
- Recruitment for three Deputy Public Works Director positions and the City Internal Audit Manager are underway.
- Recently, there were approximately 35 retirements in the Water Department. These vacancies resulted in promotional opportunities and made jobs available for employees that may otherwise have been laid off.
- Community Services and the Fire Department are awaiting direction from management regarding their recruitments before filling vacant positions.
- Neighborhood Services will oversee the Customer Service Call Center.

Mr. Meyer stated that the employee personnel rules and regulations stipulate that if there are four or fewer internal applicants, staff may seek approval to open the recruitment to the general public. Management has received comments from the public about the lack of inclusiveness when recruiting and a preference to have all recruitments open to the public. Mayor Hallman noted that the recruitment process has been a challenge because if management does not hold open recruitments, it is viewed as a lack of desire to diversify the workforce. Institutional knowledge should be taken into consideration when determining whether or not an external recruitment is the preferred method. There is a balance between institutional knowledge and someone with new ideas. Mr. Meyer stated that there are circumstances whereby conducting an open recruitment can be counter productive; however, his overall preference is for open recruitments.

Mr. Meyer stated that he has been working with an employee group to develop a purpose statement that represents a Strategic Operations Plan. The organizational purpose statement revolves around the question "Are we providing outstanding value?" An important consideration is balancing the value of an amenity versus the cost to provide it. A shared vision strengthens the organization. Other program components include taking pride in serving and sustainable practices. The purpose statement developed is "*Tempe creates outstanding value for those we serve through shared visioning, superior service and sustainable practices*".

A Performance Management System will be instituted citywide. There is also a leadership development program that will focus on results. Developing norms of behavior for staff is critically important and leads to holding each other accountable. Work plans with built in measures to gauge success will be developed as a strategy for carrying out Council directives.

Councilmember Woods asked if there is a policy or document that addresses staff protocol in approaching Council. Mr. Meyer stated that there is nothing in writing; employees do have the option of speaking with Council. What needs to be defined is lobbying Council on issues, which is inappropriate. For example, Councilmembers are not allowed to get involved with personnel matters, so if an employee presents a Councilmember with a personnel matter, that is inappropriate. Councilmember Mitchell noted that it is unethical for Councilmembers to breach the Charter. He voiced his appreciation for having an open door policy between Council and staff.

Vice Mayor Navarro asked how management intends to measure accountability. Mr. Meyer explained that management is proposing standards to measure accountability that may differ slightly based upon work area. Work groups have started setting goals which builds teamwork. This system is not based on individual employee evaluations, but on work groups.

Mr. Meyer stated that one of the main goals of the strategic operations plan is to increase organizational capacity so that tasks are completed in a cost effective and comprehensive fashion. External goals are determined by Council. Mayor Hallman stated that the Council focus needs to be on goals and staff can then focus on the steps and means to achieve those goals. Neighborhood revitalization is an example of how the linkage between goals and organizational focus works. Mr. Meyer outlined his two major goals. 1) develop and implement a strategic operations plan to achieve high performance, organization-wide alignment, continuous improvement and measured performance, and, 2) develop and implement a financial plan which achieves fiscal sustainability through disciplined management of resources. Staff will also work on preparing financial policies for Council consideration. This will be a five-year plan to address sales tax revenues, capital improvement project policies, debt service and state shared revenues. Mr. Meyer closed by voicing his optimism about the new management team in place and their leadership abilities.

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The Meeting recessed at 3:17 p.m. and reconvened at 3:32 p.m. with all Councilmembers present.
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3. Real Colors Temperaments: Facilitated Exercise

Gretchen Maynard provided a brief background on the study of temperaments. There are four temperaments, one of which is dominant in each individual. Understanding different temperaments leads to more effective communication. Ms. Maynard facilitated an exercise so that Councilmembers and staff could determine their dominant temperament. Meeting participants broke into small groups based upon temperaments, discussed their values, joys, needs and strengths, and presented the information to the group. Group discussion and interaction followed.

Ms. Maynard closed by stating that all temperaments have strengths that lend themselves to teams. Knowing how to communicate with the different temperaments makes for a better team environment.

At 5:12 p.m., participants walked to the O'Connor House, 1230 North College Avenue, Tempe, Arizona, for a tour and dinner. The meeting adjourned at 7:25 p.m.

Minutes of the City Council Summit Meeting of Saturday, August 14, 2010 held at 8:30 a.m. at the Arizona Historical Museum, 1300 North College Avenue, Tempe, Arizona.

The Mayor and City Council gathered for breakfast at 8:00 a.m. Mayor Hallman called the meeting to order at 8:30 a.m. with all Councilmembers present.

Mayor Hallman stated that the purpose of this meeting is to prioritize work for staff, taking into consideration existing fiscal restraints.

Charlie Meyer explained that limited staff were invited to attend the Council summit in order to facilitate an open dialogue about the current state of the city. Mr. Meyer noted the following:

- Fiscal year 2011/12 budget will remain static based on revenue forecasts.
- Staff will focus on basics and service delivery
- The revenue stream has begun to show slow signs of recovery.
- Staff will begin preparing a plan for when the .02% sales tax increase, approved by voters in May 2010, sunsets four years from now. This poses a huge financial challenge.
- Reduced level of operations is the new status quo.
- There are no funds for FY 2010/11 capital program projects.
- Infrastructure planning will begin in the near future.
- State laws impact how cities and towns are able to financially plan. Borrowing money increases debt, which impacts bond ratings.
- A 17% reduction in staffing over the past two years, plus reduced library and swimming pool hours, has had minimal adverse impact to the community. There may be additional operational reduction opportunities and increased efficiencies available to bridge the temporary sales tax financial challenge.
- Wage reductions (furloughs) will be restored when revenues permit.
- Previous revenue forecasts indicate a communication gap between staff forecasts and information communicated to Council.
- Revenue trigger points in the Memorandums of Understanding will affect the financial picture.
- In the event of revenue growth, the following restorations will occur: a) employee cuts/furloughs, b) fund balance, and c) Capital Improvement Program

Mayor Hallman provided an overview of the budget reduction exercise whereby expenditures were broken down into green, yellow and red categories. The .02% sales tax increase represents \$8 million, which must be accounted for when the sales tax increase sunsets. If \$8 million in efficiencies is not realized at that time, it could result in the need to further reduce personnel or use of additional revenues, if available. Until revenues exceed 3% of budget projections, employee wages will not be restored. Should revenues exceed 3%, employee restorations would be apportioned among the work groups. Revenue projections for 2011 estimate a 7% growth. Any revenues beyond the 7% revenue projections would be dedicated to budget restorations.

Councilmember Shekerjian credited past Councils for the fund balance that was recently available and used to incentivize early retirements.

Mayor Hallman noted the importance of taking into account capital expenditures that create recurring operating costs, such as the Town Lake and the Tempe Center for the Arts and the financial burden these amenities represent.

Priorities identified:

1. Long range financial plan to be prepared by staff
2. Baseline infrastructure/maintenance measurement.

Councilmember Mitchell asked staff to provide Council with a list of infrastructure needs.

City Councilmembers discussed major City issues, including staffing, economic development, and City services in light of the current economic environment in order to create a vision and strategic work plan for staff. Discussion included:

- Prefer paying existing staff for the extra tasks versus hiring additional personnel.
- It is important to be aware of employee burn out and low morale.
- There is a point where belt tightening becomes counter productive; management intends to develop ways to measure efficiency and its organizational impact.
- The organization is reactionary in nature, operating on a complaint basis.
- Tempe should be positioned to proactively and aggressively seek out economic development opportunities when economic recovery occurs.
- Cross training employees to vary their tasks might ease employee burn out.
- The lagging housing market, property valuations and lack of jobs impact opportunities and whether or not people are attracted to the area.
- Tempe has made significant investments in its infrastructure which should attract economic development.
- It is important to measure where Tempe is lacking and to address those issues so that when the economy rebounds, Tempe's opportunities are maximized.
- There is a disconnect between the Council vision and conveying those concepts to staff.
- Staff needs to have a defined vision from Council in order to move forward in right direction.
- It is important to consider the cost/benefit of ideas in order to make the best decisions.
- Tempe's approach needs to shift from spending money to solve problems to finding creative ways to resolve issues.
- The community survey results reveal what residents value.
- The survey results indicate that residents feel Tempe offers a high quality of services, however, this does not necessarily translate into a high quality of life.
- Creating an inviting environment attracts investment in the community.
- Blight (fencing, right of way, medians and sidewalks), sustainability, streets, alleys and code enforcement all have an impact on the quality of life.
- It is important for the public to understand that a benefit of economic development is that it supports/funds City services.
- Current economic development activity is operationally compartmentalized; staff needs to work in a more synergistic fashion.
- Being proactive and taking inventory of existing resources is important so that leadership is prepared to position the City to expand its resources.
- There is concern that quality control is lacking.
- There are no systems in place to measure how well tasks are completed and how continued maintenance and oversight are ensured. Instituting a process will benefit the entire City and will improve communication.
- The limited personnel resources impact how, and which, jobs are completed.
- By identifying priorities, it will give management a clear direction of expectations and outcomes and guide staff on how to utilize time and resources.
- Staff has indicated an interest in looking at new ways of doing things, however funding will be required to get things accomplished.
- Economic development is one way to generate a high quality of life.
- Staff has data that would be helpful to potential businesses to educate business owners on locations that would benefit them most.
- There are opportunities to encourage synergy in strip centers; a proactive approach in sharing this data with the business community is necessary.
- Adopting a proactive approach on economic development activity is preferable.
- Engaging small business owners would also show support and add character to the community.
- A balanced approach is necessary to attracting businesses and promoting sustainability.
- There is nationwide interest in sustainability; it attracts the creative classes of people.
- A cost/benefit analysis should be a program component to ensure that what is being promoted makes sense and has a measurable pay back.
- Thinking outside of the box will be essential to getting things accomplished with fewer resources. Incentivizing this thinking brings about creativity.

- Curb appeal is essential in order to distinguish Tempe from surrounding jurisdictions and to attract new people.
- A challenging aspect to curb appeal is private property maintenance. Curb appeal includes alleys, parks, streets, medians, sidewalks, landscaping, condition of houses, etc.
- Creating a 'feel' for an environment is the goal to attracting people.
- There is a desire to develop a strategic economic development plan.
- Tempe has cultural, educational, arts and transit amenities, but economic development needs to be taken to the next level. Leveraging those amenities and incorporating a cost/benefit analysis of new propositions are important program components
- If economic challenges are not viewed as an opportunity, the status quo will be the result.
- Proactive analysis of how efficiencies can be captured will require staff involvement and buy in.
- Neighborhood/homeowner associations could be asked to assist in the education process on alley ownership and maintenance responsibility for residents.
- A neighborhood alley clean up event held in conjunction with another city function, such as Getting Arizona Involved in Neighborhoods (G.A.I.N.) night would be advantageous.
- Data is available to identify hot spots in Tempe so that staff can focus their collective attention on an issue.
- Neighborhood associations could be encouraged to adopt their neighborhood parks, medians and sidewalk landscaping.
- If the City imposes additional maintenance standards on small businesses, business owners or landlords may not be financially able to comply.
- Revitalization of neighborhoods includes strip centers.
- Landscaping is lacking in some strip centers which has a significant impact on appearance.
- It may be a challenge to encourage people to spend money on curb appeal on private property versus public property.
- There is lack of enforcement for development and disposition agreement stipulations, especially when properties are sold. This lack of oversight spans from property aesthetics to tax obligations.
- Leveraging city resources to encourage and create partnerships should be cultivated. An example is partnering with neighborhood or homeowner associations.
- Is it more important to spend resources on attracting new businesses or business retention?
- There is a desire to improve the City's relationship with Arizona State University (ASU) officials - perhaps a quarterly joint meeting could be held.
- There is a need to improve the cultural atmosphere along Mill Avenue.
- Vacant retail space along Mill Avenue could be used for artists' studios, and display/sale of artwork to activate the space.
- Creative use of vacant space would attract people to the downtown.
- It is important to create an atmosphere downtown that surrounding cities lack; this involves taking risks.
- Downtown merchants (tenants) have repeatedly indicated that there is a disconnect between themselves, city staff and the Downtown Community, Inc. (DTC).
- Tenants believe that the DTC focuses more on their relationship with downtown landlords, rather than tenants. Enhancing relations with downtown tenants is important.
- Attracting more locally owned businesses to the downtown versus national retail chains and restaurants would change the environment.
- Small business owners struggle to pay high rent rates along Mill Avenue. This creates an advantage that national chains have over small businesses in the downtown.
- The public perceives that there is limited parking in the downtown. This continues to be a challenge.
- There are a variety of sporting events that occur in Tempe - additional exploration into youth sports and its costs/benefits should be considered.
- Several Councilmembers voiced an interest in taking a more active role in economic development.
- If staff is expected to be proactive with economic development, then it is fitting that Council follow suit.
- It is important to have a thorough knowledge of what is important to the customer when approaching an development lead.
- It would not be appropriate to have multiple individuals negotiating economic development deals; however staff can keep Councilmembers informed of the status of negotiations.

- Potential areas of focus for economic development included the downtown, Town Lake, long-term model for the Rio Salado Project, and commercial/industrial park revitalization.

Mayor Hallman stated that the previous focus of Council committees included public works, parks and recreation, public safety, and finance/economic development. To move forward, a common vision will be required so that a direction is clear. Values that have been identified include: high tech, sustainable, family oriented, entertainment driven. Existing resources need to be expanded. Improvements need to be made on maintaining properties, expanding economic development, transportation/transit, educational partnerships, and hotel/conference center. Maintenance and "back-to-basics" should be a component of all future Council Committees.

Councilmembers voiced their desire to finalize pending committee work, in the event that the Mayor is not prepared to make new committee assignments at this time.

Councilmember Ellis discussed the educational aspect of the modern streetcar study and the available funding for these types of projects. These are on-going issues for her Committee. It is important to explore transit options that connect Tempe to other cities.

Mayor Hallman asked Councilmember Arredondo-Savage to Chair the Council Educational Partnerships Committee and to serve on the Transportation Committee until committee assignments are finalized. Prior to identifying who will serve on what committee, a holistic community vision will be necessary in order to adopt a 'brand'. Mayor Hallman directed Councilmembers to continue to work on their committees if there is unfinished business. Several Councilmembers noted their areas of interest, as follows:

Councilmember Robin Arredondo-Savage: Economic development, partnerships, aesthetics, parks/neighborhoods, budget/finance, upkeep/maintenance

Councilmember Mitchell: Economic development (hotel/conference center), high tech/bio sciences, manufacturing, hotels, vacant parcels, silos on Mill Avenue, etc. The vision for the City is a vital component of committee directives.

Based on the hour, a continuation of the Summit discussions was scheduled for Friday, September 10, 2010 at noon; the location is to be determined.

The Meeting was adjourned at 12:15 pm.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the City Council Summit of August 13 and August 14, 2010, by the Tempe City Council, Tempe, Arizona.

Hugh Hallman, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk



Minutes Committee for Youth, Families and Community May 11, 2010

Minutes of the Committee for Youth, Families and Community held May 11, 2010 at the Tempe Public Library Connections Program Room, 3500 S. Rural Road, Tempe, Arizona.

MEMBERS Present:

Randy Lazar, Tempe Union High School District
Bobbie Cassano, Tempe Community Council
Ilene Dode, Tempe Resident/EMPACT-SPC
Alan Anderson, Checkmate Chess Instruction
Lauren Johnson, Community Bridges
Barb Fries, Tempe Elementary School District
Norm Saba, Cardon Children's Medical Center
Kelley Lind, Cardon Children's Medical Center
Ginae Klasek, Chicanos Por La Causa
Sherri Jones (for Maria Holmes), Association for Supportive Childcare
Charmaine Trujillo, Mountain Park Health Center

MEMBERS Absent:

Vic Cordts, Boys & Girls Club of the East Valley
Maria Holmes, Association for Supportive Childcare
Amanda Hamm, Kyrene School District
Joe Spracale, Tempe Impact Education Foundation
Lynette Stonefeld, Tempe/Kyrene Communities In Schools
Kristine Kassel, Benefits By Design

City Staff Present:

Kim Bauman, Community Services – Social Services
Tim Cox, Community Services – Social Services
Roni Alexander, Community Services – Social Services
Nancy Rodriguez, Municipal Court
Heather Penner, Tempe Police Department

Guests Present:

Karen Moses, Arizona State University
Nori Cannell, Tempe Union High School District
Tim McAlphin, Arizona Grand Resort
Warren Cole, McClintock High School
Tooba Ulaque
Nishat Bhuiyan
Kelsey Crane

Mahad Shah	Ari Vissicaro	Michael Dougall, Jr.
Naomi Charles	Mahad Sha	Saima Sha
Anthony Price	Andrea Price	Andrea Price
Andrew Price	Allison Crane	Lynn Crane
Nishat Bhwiyan	Safir Ulhaque	Tazeen Ulhaque
Nishat Ulhaque	Pati Urias	Colin Dougal
Rutger Whyte	Travis Roark	

Meeting convened at 4:02 p.m.

Agenda Item 1- Call Meeting to Order and Introductions

Ilene Dode called the meeting to order. Introductions were made.

Agenda Item 2 – T-Shirt Contest and Video Contest Finalists and Winners

- 8) **Bobbie Cassano** provided an overview of the t-shirt contest and how the 19 entries were judged. She then announced the 3rd, 2nd and 1st place recipients, who were recognized at the meeting.
- Kesley Crane, who attends 12th grade at Corona del Sol High School, and Mahad Shah, who attends 6th grade at Fees Middle School, were tied for 3rd place. Each received a \$50 gift card to Arizona Mills Mall.
 - Nishat Bhuiyan, who attends 11th grade at Corona del Sol High School, was the 2nd place recipient. She received a \$250 gift card to Arizona Mills Mall.
 - Tooba Ulhaque, who attends 10th grade at Corona del Sol High School, was the 1st place recipient. She received a a\$500 gift card to Arizona Mills Mall.
- 9) Bobbie Cassano then provided an overview of the video contest and how the 17 entries were judged.
- 10) Bobbie then introduced McClintock High School teacher Warren Cole who used the video contest as an assignment in his multi-media class and Tim McAlphin from the Arizona Grand Resort, which donated the video contest grand prize of a 2 night family suite stay at the resort.
- 11) The video contest runner-ups and first prize winner were then announced and recognized by the committee and other attendees:
- Runner-Up Naomi Charles attends 12th grade at McClintock High. She received a \$200 gift card to Arizona Mills Mall.
 - Runner-up Michael Dougall, Jr., attends 11th grade at McClintock High School. He received a \$200 gift card to Arizona Mills Mall.
 - Grand Prize Winner Ari Vissicaro, attends 12th grade at McClintock High School.
- 12) The first place video will be used as a PSA on Channel 11 and Bobbie is seeking suggestions on where the video could also be shown.
- 13) Recipients and their guests left the meeting and Bobbie announced that that Tim McAlphin from the Arizona Grand Resort just let her know he was so delighted with the outcome and quality of the work of these talented students that he is going to add a day at the Arizona Grand Resort water park for the 2 video contest runners-up.

Agenda Item 3- Minutes from April 13, 2010 Meeting

The minutes from April 13, 2010 were reviewed.

MOTION: **Tim Cox** motioned to approve the minutes.

SECOND: **Roni Alexander** seconded the motion.

COMMITTEE CONSENSUS: Minutes were approved.

Agenda Item 4- Annual Survey of Students Perceptions vs. Reality of Alcohol Use

Karen Moses, Arizona State University provided an overview of the Student Health Center Wellness and Health Promotion programs and annual student survey outcomes.

- 1) ASU's Wellness and Health Promotion provides information, education and resources to students on alcohol and other drugs, depression and suicide, sexual and interpersonal violence, and stress.
- 2) High risk alcohol use and underage drinking is one of the priority areas addressed.
- 3) ASU student alcohol consumption rates are actually lower than many of the other universities they compete against. However, the four campuses have 68,064 students so the number of students consuming alcohol is larger than many other universities.
- 4) 55,552 students are enrolled at the Tempe campus and of those 10,000 reside on campus and are almost all freshmen.
- 5) While these students don't report they consume as much alcohol as students off campus they report that when they do drink they consume a lot of alcohol.
- 6) ASU's Wellness and Health Promotion takes a comprehensive approach to underage drinking and high risk alcohol use that utilizes environmental management and a social norms approach. Their strategies are universal in order to reach as many students as possible. Students needing individualized assistance are referred to counseling services and other resources within the university.
- 7) Environmental management includes the following:
 - Providing healthy alternatives
 - Supporting health-promoting norms
 - Addressing availability/access
 - Addressing marketing and promotion
 - Developing and enforcing policies and enforcing laws.
- 8) There are three education components provided and are primarily utilized by freshmen students:
 1. Online Alcohol Education
 2. Social Marketing
 3. Let's Talk About It
- 9) ASU students participate in an annual American College Health Association (ACHA) National College Health Assessment and other surveys which assist the university in planning and assessing the success of its strategies.
- 10) The ACHA National College Health Assessment findings for ASU were summarized:
 - The percentage of students who reported using alcohol in the last 30 days in 2002 was 70%, which was slightly below the national reference group. The percentage of students who reported use in 2008 was 64%. ASU students reported 30 day use rate is decreasing much more quickly than the national reference group.
 - The percentage of students who reported having 5 or more drinks in a sitting during the last two weeks was 34% in 2000 and has decreased to 29% in 2008. The national reference group percent, which is higher than ASU students, has barely decreased during the same timeframe.
 - The percentage of ASU students who reported using marijuana within the last 30 days was 16% in 2000 and has decreased to 11% in 200. This is lower than the national reference group.

- Students' perceptions of how many students had 5 or more drinks the last time they partied or socialized has also decreased between 2002 and 2008 and indicates that students perceptions of use are becoming more aligned with reality.

Agenda Item 5 – Community Readiness Assessment Results

Bobbie Cassano provided a summary of the City of Tempe's community readiness assessment results. This report was previously forwarded to all committee members.

- 1) The assessment was distributed to numerous individuals representing different sectors. Twenty-six of those individuals responded and of those 15 were community (non-coalition) members.
- 2) Our overall readiness in Spring 2009 was Level 4 – Preplanning. Our overall readiness as of March 2010 is Level 5- Preparation. At this level many in the community understand the issue of underage drinking and believe that something must be done to address it. However, at this time the prevention efforts may not be well-known or the efforts have not been broad enough to reach across multiple sectors.
- 3) Recommendations made by Magellan and Pima Prevention Partnership include:
 - Expansion or enhancement of social marketing efforts to reach more people.
 - Recruit additional community leaders to participate in efforts.
 - Engage community members by giving them concrete things they can work on to reduce underage drinking.
 - Gather more local data and provide more information on how underage drinking specifically impacts Tempe.
 - Gather information on adult and parent perceptions.

Agenda Item 6-Subcommittee Updates and Summer Meetings

Bobbie Cassano provided subcommittee updates and future tasks.

- 1) The Marketing Subcommittee will need to determine how we distribute t-shirts with the winning design and venues to highlight the winning video. **Randy Lazar** had the following suggestions for the video:
 - Arizona Mills Mall
 - Boys and Girls Clubs and YMCA
 - Movie Theaters
 - Coalition website
 - Local television stations as a PSA

Other committee members' suggestions included the Open Horizons show, school video announcements, and school assemblies.

- 2) The pilot mapping project has been completed by the peer leaders and police explorers. The Data Collection Subcommittee will need to determine how we best utilize the results as well as plan for the community wide mapping project. **Heather Penner** reported the Police Explorers will be able to continue the project with the peer leaders and other youth groups.
- 3) The Public Policy Subcommittee will continue to focus on a social host ordinance.
- 4) Bobbie would also like to form an ad hoc committee which would work over the summer to plan the Fall Town Hall. We hope to have at least 100 adult community members in attendance. She will be contacting committee members to participate in this planning process.

Agenda Item 7 – FY 2010-11 Magellan Prevention Grant Strategic Plan Update

Kim Bauman provided an update on the City's FY 2010-11 strategic plan.

- 1) Based upon feedback Magellan received from the Arizona Department of Health Services, Division of Behavioral Health Services (ADHS/DBHS) some revisions had to be made to our proposed strategic plan including the goal and objectives.
- 2) The goal was revised to: Increase age of first use of alcohol among City of Tempe youth.
- 3) Objective 1 was revised to: Decrease adult attitudes favorable to underage drinking by a statistically significant amount as measured by community surveys.
- 4) Objective 2 was revised to: Sustain low levels of youth attitudes that are favorable to underage drinking as measured by pre/post tests.
- 5) The proposed activities are essentially the same with some additions and revisions.
- 6) Once Kim receives approval of a final plan by Magellan she will forward it to committee members.
- 7) We still have not received notification of our final budget. Magellan has submitted their budget proposal to the ADHS/DBHS and is waiting for approval.

Agenda Item 8– Grant and Program Updates

- 1) New member **Charmaine Trujillio** provided a brief overview of Mountain Park Health Center.
 - The Tempe center has been in existence for four years and is located next to Tempe St. Luke’s Hospital. Other centers are located in S. Phoenix, E. Mesa, Maryvale, and Tolleson.
 - The centers are federally funded and provide services to the uninsured and underserved. The fee structure is sliding scale based upon income.
 - The centers offer one-stop services and include behavioral health specialists at most locations.
 - The centers works closely with Magellan as many of their patients are covered by ACCESS. The Tempe center works with Tempe Union High School District to provide flu immunizations and works partners with Banner Health.
 - **Norm Saba** indicated there may be opportunities to partner with Cardon Children’s Center on services and resources.
- 2) **Alan Anderson** announced the Summer Chess Academy will be provided June 21st through July 2nd at 1538 E. Southern Ave in Tempe. The program is in its 4th year and will serve 100 to 120 kids. The program has qualified for public school tax donations and provides the program to children who otherwise would not have the opportunity to participate in a summer chess academy.

Agenda Item 9 – Communities for Kids Update

Lynette Stonefeld was unable to attend the meeting due to illness so no update was provided.

Agenda Item 10– Announcements

Heather Penner announced ASU received a grant to enforce underage drinking and drug use. Tempe and ASU police officers partnered on the project and 86 arrests were made near the Tempe campus for alcohol violations by people under age 21. 50 of those individuals were jailed as this was their third violation.

Agenda Item 11- Future Agenda Items

Please contact Kim Bauman or Bobbie Cassano for future agenda items.

The committee will not meet in June and July. The committee’s next meeting will be on **August 10, 2010 at 4:00 p.m.**

Meeting adjourned at 5:20 p.m.

Prepared by: Kim Bauman

Barb Fries, Vice Chair



Minutes Committee for Youth, Families and Community Town Hall Ad-Hoc Committee August 2, 2010

Minutes of the Town Hall Ad-Hoc Committee for Youth, Families and Community held August 2, 2010 at the Tempe Public Library Board Room, 3500 S. Rural Road, Tempe, Arizona.

MEMBERS Present:

Randy Lazar, Tempe Union High School District
Maria Holmes, Association for Supportive Childcare
Lauren Johnson, Community Bridges
Celeste Plumlee, Tempe Resident
Bobbie Cassano, Tempe Community Council
Barb Fries, Tempe Elementary School District

MEMBERS Absent:

Lynette Stonefeld, Communities In Schools
Kay Cosner, No Parent Left Behind
Fran Santos, Tempe Police Department
Alan Anderson, Checkmate Chess Instruction

City Staff Present:

Guests Present:

Meeting convened at 11:00 a.m.

Agenda Item 1- Call Meeting to Order and Introductions

Bobbie Cassano called the meeting to order and welcomed attending members.

Agenda Item 2- Minutes from January 17, 2010 Meeting

The minutes from July 7, 2010 were reviewed.

MOTION: **Randy Lazar** motioned to approve the minutes as amended.

SECOND: **Maria Holmes** seconded the motion.

COMMITTEE CONSENSUS: Minutes were approved as amended.

Agenda Item 3-Town Hall Presenters

- 1) The committee reviewed the presenters who have been asked to participate in the Town Hall. At this point we appear to have confirmations or expressed interest in all those asked.
- 2) We discussed having a “dress rehearsal” for those who can attend prior to the event
- 3) By September 1, we would like to have an informational letter sent to the presenters so they know any timelines or expectations we may have well in advance of the event.
- 4) Bobbie reported we are asking a news anchor who lives in Tempe to serve as the M.C.

Agenda Item 4 –Sponsorships and Donations

- 1) The donations received to date were discussed. Several others have been contacted. Members are letting the committee know as they are received and giving Bobbie the information needed for thank you letters to be sent after the event.
- 2) Discussed the use of a bag with the Coalition logo on it to hand out to each attendee. This bag might include a handout of “facts” as well as donated promotional items and Coalition information. Celeste Plumlee will look into a printer who may consider this as a donation.
- 3) Randy Lazar will check with his contact at a home improvement store to see if they would provide coupons/gift cards to be used to purchase locks for cabinets in order to encourage locking up alcohol in the home.

Agenda Item 5-Marketing Plan

Ideas for marketing the Town Hall were discussed and include:

- Press releases to the school districts asking to be put on their websites and appropriate school newsletters, etc.
- Community calendars with an emphasis on Tempe
- Press releases to news outlets as the time approaches
- Work with the Tempe Chamber of Commerce and Tempe Leadership to promote
- Ask the Coalition/CYFC members to send fliers to their appropriate business and personal contacts
- Ask the Marketing Sub-Committee to help

Agenda Item 6-Signage

We discussed having Coalition members at the parking garage and along the street to help direct attendees to the Council Chambers. It may be helpful to have some sort of t-shirt or name badge for them.

Agenda Item 7–Future Committee Meeting Dates

We determined the following meeting dates and Bobbie will confirm the location once reserved:

Monday, August 16, 2:00 p.m.

Wednesday, September 8, 4:00 p.m.

Tuesday, September 21, 4:00 p.m. (dress rehearsal)

Monday, September 27, 4:00 p.m. (if needed)

Agenda Item 8 –Announcements

There were no announcements

Agenda Item 9– Future Agenda Items

Registration

Handouts

Calls to Action

Power Points and laptops

“Dress Rehearsal”

Letter to Presenters

Identification (t-shirt, name badge, etc) of Coalition members

Signage

The committee’s next meeting will be on **August 16, 2010 at 2:00 p.m.**

Meeting adjourned at 12:15 p.m.

Prepared by: Bobbie Cassano

Reviewed by: Kim Bauman

Bobbie Cassano, Coalition Coordinator



**Minutes
Tardeada Advisory Board
Monday, June 14, 2010**

Minutes of the TARDEADA ADVISORY BOARD held on Monday, June 14, 2010, 6:00 P.M., at the Tempe Public Library Board Room, 3500 S. Rural Road, Tempe, Arizona.

(MEMBERS) Present:

Isabel Ruiz, Chair
Joe Arredondo
Karen Arredondo
Normalicia Blanco
Dora Bustoz
Manny Bustoz
Cindy Espinoza
Narcie Espinoza
Terry Gladney
Anthony Gutierrez
Santos Vega

(MEMBERS) Absent:

Jolyn Arredondo
Lillie Parra-Moraga

City Staff Present:

Ginny Belousek, Sr. Diversity Specialist

Agenda Item 1 – Call to Order

Meeting convened at 6:05 P.M.

Chair, Isabel Ruiz called the meeting to order and invited members of the public to address the Commission.

Agenda Item 2 – Public Appearances

None

Agenda Item 3 – Approval of Minutes

MOTION: Santos Vega moved to approve the Tardeada Board minutes of February 8, 2010

SECOND: Cindy Espinoza seconded

DECISION: Passed unanimously

Agenda Item 4 – Meeting Selection Date

Commissioner Dora Bustoz informed the Board that she has been appointed to the Saint Mary's Advisory Board, and that this board meets on the 2nd Monday of the month. Due to the conflict with the Tardeada Advisory Board standing meeting dates she will need to resign if the Tardeada meeting dates remain the same. The Board discussed possible alternate meeting dates and agreed to pursue the dates of August 16, September 20 and October 4 for future meetings. Ginny Belousek will confirm these dates with the Board after checking on room availability.

Agenda Item 5 – Committee Sign-Up

Ginny Belousek passed around a Subcommittee sign up sheet. The following subcommittees were created:

Food: Joe Arredondo, Cindy Espinoza

Scholarship: Santos Vega, Narcie Espinoza, Manny Bustoz, Dora Bustoz, Isabel Ruiz

Site Plan: Joe Arredondo, JoLyn Arredondo

Tortilla: Cindy Espinoza, Isabel Ruiz, Terry Gladney

Museum: Terry Gladney, Narcie Espinoza, Isabel Ruiz

Coloring Contest: JoLyn Arredondo, Karen Arredondo

Agenda Item 6 – Sponsorship Update

Ginny Belousek reported on the status of the sponsorships. Due to the economy, many past sponsors are not committing. To date the following sponsors have committed:

APS – Presenting Sponsor

Arizona Republic – Stage Sponsor

104.7 Kiss FM – Radio sponsor

Hospice of the Valley – General Sponsor

Ginny reported that last year's sponsors have been contacted via e-mails and follow-up phone calls. In addition, sponsorship packets have been mailed out to the Hispanic Chamber of Commerce members and any past Tardeada sponsor. IKEA responded to the e-mail and will let Ginny know of their commitment by July 1. Once again AZ Federal Credit Union is unable to participate. The board asked Ginny to send the sponsorship packet to them electronically so they can forward it to their contacts.

Normalicia Blanco stated that her daughter works for Univision, and she will present them with a sponsorship packet next week.

Agenda Item 7 – Diversity Department Announcements

Ginny reported that the Library has presented a proposal to City Council to close the Library on Sundays. This may affect the attendance at the Tardeada if this happens. The board said they are confident that the Tardeada will still attract a very large crowd.

Santos Vega asked what effect SB 1070 will have on the Tardeada. The Board discussed possible scenarios, but agreed to table the discussion until the September meeting and check on the status of the bill due to the many lawsuits being filed against it.

Ginny said that she has ordered two large Tardeada banners to be hung on the Rural Rd. and Southern Ave. walls of the Community Center. She has reserved the walls from mid-September through mid-October for these banners. In addition, the Mill Avenue banner has been scheduled to be hung the week of October 4th, and the street pole banners will be hung along Elliot, at the Rural/Southern intersection, and by the Mills Mall from September 13 – October 11.

Ginny reported that the Diversity Department still does not have an Administrative Assistant. Liz Alvarado elected to leave her employment at the end of March due the current city lay-offs. Ginny does not anticipate having anyone on board until after July.

Agenda Item 8 – Announcements

Isabel Ruiz reported that the Museum Grand Opening was a wonderful event. The Tortilla-Making demonstration was very successful. She even received requests from people to do tortilla making demonstrations at other non-city events.

Agenda Item 9 – Selection of Next Meeting Date

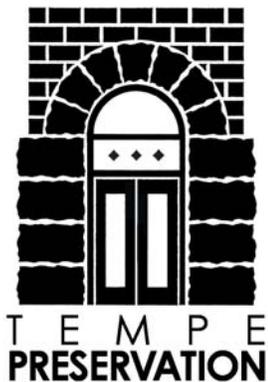
There will be no meeting in July. The next meeting of the Tardeada Advisory Board will be Monday, August 16th at 6 p.m. Ginny will confirm the location.

Agenda Item 10 – Adjournment

MOTION: Santos Vega moved to adjourn the meeting

SECOND: Joe Arredondo seconded

The meeting adjourned at 7:15 p.m.



**TEMPE HISTORIC
PRESERVATION
COMMISSION**

Ira Bennett, Alternate
Anne Bilsbarrow
Elias Y. Esquer
Bob Gasser, Chair
Andrea Gregory
Charlie Lee, Alternate
Kriste Melcher
Liz Wilson, Vice-Chair

**TEMPE HISTORIC
PRESERVATION
OFFICE**

Amy Douglass
Nathan Hallam
Hunter Hansen
Wm. "Billy" Kiser
Joe Nucci
John Southard
Mark Vinson

The City of Tempe is a
Certified Local Government,
in association with the United
States Department of the
Interior / National Park Service

Tempe Historic
Preservation Office
Community Development
Department
21 East 6th Street, Suite 208
P.O. Box 5002
Tempe, AZ 85280

480.350.8028
8579 FAX; 8913TDD



Tempe Historic Preservation Commission [Tempe HPC] MEETING MINUTES

Meeting Date: Thursday, July 08, 2010

Location: Hatton Hall, 34 East Seventh Street

Commissioners

Present:

Anne Bilsbarrow
Elias Y. Esquer
Bob Gasser
Andrea Gregory
Liz Wilson (arrived at 6:05 PM)

Staff Present:

Nathan Hallam, Wm. "Billy" Kiser, Joe Nucci, John Southard,
Mark Vinson

Public Present:

Vic Linoff, Cameron Nelson, Cheyenne Ringlero, Woody Wilson

Call to Order: 6:01 PM, Bob Gasser, Chair

1. Call to Audience

NO COMMENT

CONSENT AGENDA

2. Approval of HPC Minutes: 06/10/10 Tempe HPC meeting

MOTION TO APPROVE MINUTES

3. Discuss and Consider Adopting Procedure per Sec. 14A-3(j)

HPO update on formalizing a process for a Certificate of Appropriateness

MOTION TO APPROVE INSTRUCTIONS FOR FILING AN APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS DATED JULY 8, 2010.

4. Discuss and Consider Adopting Procedure per Sec. 14A-4(j)

HPO update on implementing classification of Historic Eligible properties

MOTION TO IMPLEMENT A PROCESS FOR CLASSIFYING HISTORIC ELIGIBLE (HE) PROPERTIES FOR CONSERVATION AND ENHANCEMENT BEGINNING WITH PROPERTIES LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES AS APPROPRIATE.

ON A MOTION BY COMMISSIONER ESQUER AND SECONDED BY COMMISSIONER BILSBARROW, THE COMMISSION, WITH A VOTE OF 5-0, APPROVED AGENDA ITEMS TWO, THREE, AND FOUR.

REGULAR AGENDA

5. Discuss and Consider Hudson Manor Fieldwork

John Southard update on Hudson Manor Survey and Governor Moeur House NRN

- Hudson Manor field surveys utilizing National Register Criteria A and C have been completed
- Staff has contacted HMNA Chair Phil Amorosi numerous times to schedule a presentation of fieldwork to neighborhood residents. As of yet, no presentation has been scheduled.
- Protocol requires staff to utilize NA Chair as primary point of contact.
- Preliminary work on NRN form for Governor B. B. Moeur House included in the monthly packet.
- Per NR Criterion B standards, period of significance has been revised to reflect the entire period of Moeur's association with the property (1896-1937).

6. Discuss and Consider Tempe (Hayden) Butte National Register Nomination

Billy Kiser update on Tempe (Hayden) Butte and Governor Pyle House NRN

- Revised copy of Tempe (Hayden) Butte National Register Nomination was included in monthly packet. Darker text indicates change since June meeting.
- Nomination now being submitted under National Register Criteria C and D.
- Butte contains important examples of regional style within the Gila petroglyph style. The pipette motif is especially significant. Anthropomorphs are also found interspersed with spirals and other images. Images of petroglyphs will be cross-referenced in the text of the nomination.
- Several members commented on the high quality of Billy's draft nomination for the Butte which was agreed to be very well done.
- Dr. David Jacobs of SHPO has suggested providing draft to the Gila River Indian Community for review.
- Q: Is this appropriate as SRPMIC funded the NRN? A: No conflict. SRP-MIC and GRIC will be allowed 45 days for review and comment.
- Research for the Governor Pyle House National Register Nomination is ongoing.

7. Discuss and Consider Survey & Inventory of pre-1941 Properties

Nathan Hallam update on Pre 1941 Survey & Inventory and Kirkland-McKinney Ditch NRN

- Hallam has been working with NANA Chair Karyn Gittis and artist Nina Solomon to draft text for a standpipe art project focused on neighborhood history.
- Survey of Gage Addition has been completed; Park Tract survey is nearly complete.
- Following completion of Maple-Ash historic property survey, Hallam will continue with remainder of pre-1941 properties in Tempe.
- Properties in need of Commission adjudication due to integrity concerns will be brought forth next month.
- Pre 1941 properties with sufficient integrity are eligible for historic designation and listing in the Tempe Historic Property Register.
- Research for Kirkland-McKinney National Register Nomination has been postponed.

8. Discuss and Consider HPC Actions at Ad Hoc and Council Committees

Member updates on standing Council Committee meetings

- *CONTINUED*

9. Discuss and Consider Chair / Staff Updates:

- 2010 Beautification Awards outstanding projects completed in 2007, 2008 and 2009
 - Beautification Award recipients have not yet been selected. HPC will be updated when selections are announced.
- Tempe HP Foundation Plaque Program Update
 - HPO Nucci unveiled Mark Vinson-designed plaque for the Eisendrath House. Plaque is one of ten initial plaques planned. HPF hopes to present the plaques during City Council meetings once the initial batch is fully subscribed.
 - THPF hosted fundraiser at the Eisendrath House will take place October 22nd. Event will feature a local blues band and food from Honey Bear's BBQ. Admission will be set at \$100, and may be paid online at www.tempehpf.com.
- Tempe HPO Social Media Project <http://www.facebook.com/TempeHPO>
 - HPO profile currently "liked" by over 1,175 individuals.

10. Current Events / Announcements / Future Agenda Items

- Member Announcements
- Staff Announcements
 - Chris Anaradian has been selected to serve as director of the Community Development department. He has replaced Chris Salomone in that role.
 - Hansen has transferred to the Development Services department.
 - HPO Nucci is slated to attend a budget discussion with Chris Anaradian on Thursday, July 15th. HPC will be provided an update in August.
- Next HPC Meeting will be on Thursday, 08/12/2010, at 6:00 p.m. in Hatton Hall

Meeting adjourned at 7:05 PM

Minutes scheduled for Tempe HPC approval 08/12/2010

FREQUENTLY USED ABBREVIATIONS OR ACRONYMS

CDD – City of Tempe Community Development Department: Established February 15, 2005, by City Manager Will Manley the CDD consists of six divisions; Economic Development, Housing Services, Redevelopment, Neighborhood Enhancement, Rio Salado/Town Lake, and Special Projects, as well as the Community Design Studio / City Architect. The Tempe Historic Preservation Office is an agency of the Special Projects Division.

CLG – Certified Local Government: In 1980, Congress established a framework for local preservation programs through an amendment to the National Historic Preservation Act empowering Arizona cities and counties to become Certified Local Governments (CLGs). Once certified, these entities are eligible for specialized assistance and funds for developing their own local preservation programs and entitled to comment on NR and other SHPO activities within their boundaries. The City of Tempe became a CLG in 1995.

DDA – Development & Disposition Agreement: a redevelopment contract between the City and one or more developers or redevelopers specifying terms and conditions for construction or reconstruction.

DSD – City of Tempe Development Services Department: dealing with Building Safety, Land Use, Planning and Zoning

DRC – City of Tempe Development Review Commission: volunteer board advising Mayor and Council on matters related to the built environment and administration of General Plan 2030 and the Zoning and Development Code.

HPAC – Historic Preservation Advisory Committee: Arizona State Parks is governed by the State Parks Board and receives direction and oversight from several advisory committees and groups such as the Historic Preservation Advisory Committee.

IEBC – International Existing Building Code: adopted by Tempe City Council by Ordinance No. 2005.89 on December 1, 2005, as part of the code body promulgated by the International Code Council, provides means for preservation of existing Tempe building inventory through reasonable and feasible code processes.

IRS – Issue Review Session: informal Mayor and Council public meeting where members of the public may come forward and talk with City Council during the “Call to the Audience” prior to regular Council meetings.

NPS – National Park Service: a division of U. S. Department of the Interior.

NRN – National Register Nomination: a nomination prepared for listing a property in the National Register of Historic Places.

PAD – Planned Area Development: site plan overlay to define development standards for a specific project.

SHPO – State Historic Preservation Office: a division of Arizona State Parks, responsible for the identification, evaluation, and protection of Arizona's prehistoric and historic cultural resources; established by the National Historic Preservation Act of 1966.

SRP-MIC – Salt River Pima-Maricopa Indian Community: created by Executive Order on June 14, 1879 by President Rutherford B. Hayes, the Salt River Pima-Maricopa Indian Community (SRPMIC) is located in Maricopa County, inside the boundaries of Mesa, Tempe, Scottsdale, Fountain Hills and metropolitan Phoenix.

Tempe HPC – Tempe Historic Preservation Commission: Created by Ordinance 95.35, adopted November 9, 1995. Members serve three year terms with the exception of the initial appointments; charged with administering the Tempe Historic Preservation Ordinance and Plan, as well as advising Mayor / Council on all matters related to historic preservation

Tempe HPF – Tempe Historic Preservation Foundation: A private nonprofit corporation established in 2005, Mission Statement 02.02.06 “The Tempe HPF advocates preserving Tempe’s at-risk historic properties and supporting worthy preservation projects through education, community participation, and fundraising.”

Tempe HPO – Tempe Historic Preservation Office: Responsible for the identification and conservation of Tempe’s prehistoric and historic cultural resources, the Office uses Federal, state, and city funding for the historic preservation program and assists owners of historic properties with grant applications, property maintenance, and preservation activities; provides staff support to the Tempe HPC.

THM – Tempe Historical Museum: Located at 809 E. Southern Avenue in Tempe, the Tempe Historical Museum is a center where the community comes together to celebrate Tempe's past and ponder the future. Permanent and changing exhibits, educational programs, and research projects generally focus on some aspect of Tempe's history within the context of state and national events.

TOD – Tempe Transportation Overlay District: placed to encourage appropriate land development and redevelopment consistent with and complementary to the community’s focused investment in transit, bicycle, and pedestrian infrastructure in certain geographic areas of the City; typically in association with the light rail.

ZDC – Zoning & Development Code: Adopted by Mayor and Council on January 20, 2005, effective February 22, 2005, the ZDC implements Tempe General Plan 2030 by encouraging creative development of the built environment in order to build a community that promotes the livability and uniqueness of Tempe; establishes zoning districts and development standards.

**MINUTES OF THE
DEVELOPMENT REVIEW COMMISSION
JULY 27, 2010**

**Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 E. 5th Street, Tempe, AZ 85281
6:00 PM (5:30 Study Session)**

Commission Present:

Vanessa MacDonald, Chair
Mike DiDomenico, Vice Chair
Stanley Nicpon
Monica Attridge
Tom Oteri
Dennis Webb
Paul Kent

Commission Not in Attendance:

Peggy Tinsley (Alternate)
Mario Torregrossa (Alternate)
Kolby Granville (Alternate)

City Staff Present:

Steve Abrahamson, Planning & Zoning Coordinator
Diana Kaminski, Senior Planner
Shawn Daffara, Code Inspector II
Lisa Novia, Administrative Asst. II

Chair MacDonald called the meeting to order at 6:00 p.m. It was determined at the Study Session that both cases would be heard.

1. CONSIDERATION OF MEETING MINUTES: 7/13/10

On a motion by Commissioner DiDomenico and seconded by Commissioner Kent, the Commission with a vote of 7-0 approved the minutes of the July 13, 2010 meeting.

REGULAR AGENDA

2. Request for **HAREM NIGHTS (PL090148/RVK10002)** (Kahlil Abulaban, applicant; 1630 Apache LLC, property owner) to appeal the Hearing Officer's Decision of May 19, 2010 to revoke the Use Permit. Harem Nights is located at 1630 East Apache Boulevard, Suite No. 103, in the CSS, Commercial Shopping and Services District. The request includes the following:

RVA10002 - To appeal the revocation of a Use Permit to allow a hookah lounge/tobacco retailer.

THIS CASE WAS CONTINUED FROM THE JULY 13, 2010 MEETING

STAFF REPORT: [DRCR_HAREMNIGHTSAPPEAL_072710.PDF](#)

This case was presented by Shawn Daffara and represented by Kahlil Abulaban, applicant. Mr. Daffara made a brief presentation in which he indicated that the plans for the necessary building improvements have been submitted by the applicant and are currently being processed through second review.

Mr. Kahlil Abulaban, applicant, addressed the Commission and indicated that they are working towards compliance and the plans are about 95% complete. The architect, Chris Duran, also addressed the Commission and indicated they expect few comments from this review, which is due to be completed on August 3rd. Mr. Duran expected it to take about two weeks from the August 3rd date for the applicant to pull permits and about 30-45 days for the actual remodel to be completed.

After a brief discussion between staff and the Commission, it is recommended that this case be continued for approximately 60 days, to allow the applicant to pull permits and complete the necessary construction.

On a motion by Commissioner DiDomenico and seconded by Commissioner Nicpon, the Commission with a vote of 7-0 continued this case to the September 28, 2010 meeting.

-
3. Request for **AICI PARKING GARAGE (PL100167)** (Mark Mehrtens, MD Construction, Inc. Applicant, Vernon Anderson, Architect, Anne Wagner, Wisterok LLC, Property Owner) consisting of a new three-story 464 space, 162,000 sf. free-standing parking structure to serve an existing 149,400 s.f. office building on 9.63 acres, located at 1280 W. Southern Avenue, in the GID, General Industrial District. The request includes the following:

DPR10112- Development Plan Review of parking garage elevations, site plan and landscape plan.

STAFF REPORT: [DRCr_AICIParkingGarage_072710.pdf](#)

This case is presented by Diana Kaminski. Ms. Kaminski made a brief presentation which included a modification to Condition No. 13 to read:

13. Existing landscape material to remain; **PERIMETER STREET FRONT LANDSCAPE TO BE REVITALIZED;** new plant material to comply with Zoning and Development Code 4-704 C.4 regarding plant heights adjacent to pedestrian areas. Modifications may be submitted during building plan check process.

On a motion by Commissioner Webb and seconded by Commissioner Nicpon, the Commission with a vote of 7-0 approved this Development Plan Review with a modification to Condition No. 13 as requested by the Commission.

4. ANNOUNCEMENTS - None

The hearing adjourned at 6:20 p.m.

Prepared by: Lisa Novia, Administrative Assistant II

Reviewed by: Lisa Collins, Deputy Director, Community Development Dept.



Lisa Collins, Deputy Director, Community Development Department

**Minutes
HEARING OFFICER
AUGUST 3, 2010**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

David Williams, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Diana Kaminski, Senior Planner
Ryan Levesque, Senior Planner
Sherri Lesser, Senior Planner

Number of Interested Citizens Present: 8

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by August 17, 2010 at 3:00 PM to the Development Services Department.

-
1. Mr. Williams approved the Hearing Officer Minutes for July 20, 2010.

-
2. Request by the **ROBERTS RESIDENCE (PL100097)** (Don Roberts, applicant/property owner) located at 902 South Maple Avenue in the R-3, Multi-Family Residential Limited District for:

ZUP10031 Use permit to allow a single family residence to add a second story addition.

VAR10008 Variance to reduce the required on site driveway length and parking setback from 20 feet to 10 feet. (20 feet available driveway distance behind sidewalk)

Mr. William White was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. She noted that the variance request is a technical variance and that this property was located in the multi-family zoning. The variance is due to the required twenty foot setback for parking. The driveway length will physically remain the same; the variance is to address the parking setback deficiency which occurs to existing perimeters.

Mr. Williams questioned whether this property was in compliance in the rear on the alley side where a balcony was located. Ms. Lesser responded that there was adequate setback and the property did comply with the code.

Mr. White explained that the third bay of the garage is not intended to be used to house a vehicle, but rather as a storage place for bikes.

Ms. Karyn Gittis, Tempe resident, spoke in opposition to this request. She stated that she and another neighbor had been unable to get in touch with the property owner and had concerns with the length of the driveway. She explained that the questions she had at the initial hearing remained. She wanted to know how the end result was going to look, and was frustrated at being unable to obtain a response from the owner. She was able to speak with Mr. White and now understood the scope of the project. Her concern over the driveway setback was how it was going to work, and whether this reduction would mean that the sidewalk would be obstructed by driveway parking.

Mr. Williams encouraged the resident(s) to file a compliant if a parking situation occurred that violated the code.

The site plan was presented by Mr. White and his associate, Ms. Jennifer Johnstad, and reviewed by those present. The additional bay was discussed and questions resolved.

Mr. Williams stated that this was a wonderful neighborhood and that concerns with compatibility were always an issue. This project blends in and the architecture is compatible with the existing structure(s).

DECISION:

Mr. Williams approved PL100097/ZUP10031/ VAR10008 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Remove the non-conforming parking/paving stripes in landscape area west of driveway; correction to be completed with new construction or by 1/3/11; whichever occurs first.

3. Request by **TEMPE 7TH DAY ADVENTIST CHURCH - BRIGHTER ANGELS DAY CARE CENTER (PL100209)** (Ruben Sandoval, Brighter Angels Day Care, applicant; Tempe Seventh Day Adventist Church, property owner) located at 630 West 17th Place in the R1-6, Single Family Residential District for:

ZUP10073 Use permit to allow a childcare facility not ancillary to the main use (place of worship).

Pastor Ray Navarro was present to represent this case.

Diana Kaminski, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Pastor Navarro noted that it was the later part of 2007 when the day care center was closed by the previous person. The building has been in existence since the early 1950's. No complaints have ever been received from the neighborhood pertaining to noise or other issues.

Pastor Navarro questioned if the existing storage sheds needed to be removed completely. Ms. Kaminski referred to Condition of Approval No. 4, which required that the buildings would need to meet the standards of the Building Safety Department to ascertain that the structures were safe.

DECISION:

Mr. Williams approved PL100209/ZUP10073 subject to the following conditions:

1. The parking area shall be restriped to meet minimum parking requirements of 15 spaces on existing paved surface.
2. Shade trees shall be planted 1 tree per 20 feet on center for the length of the restriped parking spaces on the west side of the parking lot.
3. Provide 4 secure bicycle parking spaces on site.
4. All structures on site must obtain a building permit prior to occupancy or use of the site; shade canopies or storage sheds unable to comply with safety standards shall be removed.
5. Illuminate building entrances from dusk to dawn to assist with visual surveillance at these locations using photocell controls.

6. Eliminate existing exterior switches for exterior security lighting to prevent lights from being turned off.
7. Work with staff on appropriate neighborhood sensitive lighting levels for increased security of the property.
8. At such time that funding is available, or there are calls for service which indicate security issues with the site, a wrought iron fence will replace the existing chain link fencing.
9. The use permit is valid for Brighter Angels Day Care and may be transferable to successors in interest through an administrative review with the Community Services Manager, or designee.
10. The use permit for an R1-6, Single Family zoned property to be used for a Day Care not ancillary to a place of worship is valid only with property ownership by a place of worship. Sale of this property will not constitute allowance of this site for a commercial use. Separate planning entitlement processes are required for zoning amendment to allow this use without affiliation with a place of worship.
11. All business signs shall received a Sign Permit. Please contact Planning staff at 480-350-8331.
12. The building is permitted for a total occupancy of 122 people, with no more than 100 children less than 30 months old. Any intensification or expansion of use will require a new use permit.
13. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.

3. Request by **MOMENTO COFFEE COMPANY (PL100212)** (Henry Echols/Momento Coffee Company, applicant; Dupper Properties LLC, property owner) located at 1020 West Ranch Road, Suite No. 101 in the GID, General Industrial and SWOD, Southwest Overlay Districts for:

ZUP10072 Use permit to allow coffee roasting/manufacturing in the GID, General Industrial District.

Mr. Henry Echols was present to represent this case.

Ryan Levesque, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Mr. Echols explained the process of coffee roasting stating that there is an afterburner on the roaster which results in a cleaner roast and green energy.

DECISION:

Mr. Williams approved PL100212/ZUP10072 subject to the following conditions:

1. This use permit is valid for Momentto Coffee Company and may be transferable to successors in interest through an administrative review application.
2. Any intensification or addition to the use shall require a new use permit to be approved.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's Office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. The proposed propane storage tank area will require an administrative development plan review application.
5. All required permits and clearances from Building Safety shall be obtained prior to occupancy.
6. Business signs shall be approved and permits obtained through a sign application process.

The next Hearing Officer public hearing will be held on **Tuesday, August 17, 2010.**

There being no further business the public hearing adjourned at 2:08 PM.

Prepared by: Diane McGuire, Administrative Assistant II
Reviewed by:



Steve Abrahamson, Planning & Zoning Coordinator
for David Williams, Hearing Officer

SA:dm



Minutes Special Events Task Force Meeting August 24, 2010

Minutes of the Special Events Task Force Meeting held on August 24, 2010
200 E. 5th Street, Tempe Transportation Center, Tempe, AZ 85281

Meeting convened at 1:01 p.m.

Alicia Stuebner, Assistant Recreation Coordinator, called the meeting to order and gave opening remarks regarding process and procedure. She made a call to the audience asking if anyone not on the agenda wanted to address the committee. There was no response.

City Staff Present: Mike McComb (FD), John Ferrin (PD), Fran Santos (PD), Bill Gallauer (PD), Janet Henryson (vendor permitting), David McAllister (Risk Management), Julian Dresang (Transportation), Jeff Tamulevich (Development Services), Lupe Hernandez (Environmental), Chad Holmes, (Recreation), Alicia Stuebner (Recreation), Jonni Wolfe (Recreation), Jodie Garth (Recreation)

Guests Present: Mick Hirko (TEAM Security), Billie Royal (TEAM Security), Pete Colantani (Monster Impound & Recovery), Karen Gaabucayan (Stray Cat), Donny Johnson (Luckyman Concerts), Kendon Victor (Fireworks Productions of AZ), Karl Tunberg (Sol Devils), Tom LaPenna (Fall Frenzy), Mary Fowler (Ballet Under the Stars)

I. Events/Licenses for Final Review

A. There are no events for final review.

II. Events for Initial Review

A. Live Music on Mill Ave. Tempe, Saturday, August 28, 2010 (509 S. Mill): Mike McComb made a motion to approve this event. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the event.

- B. Sol Devils Tailgate, Saturdays, September 4,11,25, October 30, November 13 and Friday, November 26, 2010 (500 E. Veterans Way-Sun Devil Stadium parking lot): Mike McComb made a motion to approve this event with the stipulation that we receive authorization from ASU to hold this event on their property. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the event with the mentioned stipulation.
- C. Fall Frenzy, Friday-Sunday, September 17-19, 2010 (Tempe Beach Park): Chad Holmes made a motion to approve this event with the stipulation that all vendors are properly permitted. It was seconded by Mike McComb. It was the consensus of the committee to approve the event with the mentioned stipulation.
- D. Fireworks for Group at Tempe Center for the Arts, Saturday, September 18, 2010 (Tempe Town Lake Northshore between dam and light rail bridge): Mike McComb made a motion to approve this event with the stipulation that the contract with a security company is confirmed. The security company's purpose is to secure the appropriate sidewalk from pedestrian access during the period of time the fireworks are on location. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the event with the mentioned stipulation.
- E. Ballet Under the Stars, Friday, September 24, 2010 (Tempe Arts Park): Jonni Wolfe made a motion to approve this event. It was seconded by Jeff Tamulevich. It was the consensus of the committee to approve the event.

III. Events Pending Approval of Special Event Liquor License

- A. The Sol Devils for Tailgate events, Saturday, September 4,11,25, 2010 (500 E. Veterans Way-Sun Devil Stadium parking lot): Mike McComb made a motion to approve this license request with the stipulation that we receive authorization from ASU to hold this event on their property. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the license with the mentioned stipulation.
- B. Spark of Hope Foundation for Fall Frenzy, Friday-Sunday, September 17-19, 2010 (Tempe Beach Park): Chad Holmes made a motion to approve this license request with the stipulation that all vendors are properly permitted. It was seconded by Mike McComb. It was the consensus of the committee to approve the license with the mentioned stipulation.
- C. Stray Cat Theatre for opening night reception, Friday, September 24, 2010 (132 E. Sixth St.-Tempe Performing Arts Center): Mike McComb made a motion to approve this liquor license request with the stipulation that all insurance requirements were met. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the license with the mentioned stipulation.
- D. Sandra Day O'Connor College of Law for class reunion, Saturday, October 23, 2010 (51 E. 10th Street-ASU Art Museum): Mike McComb made a motion to approve this liquor license request with the stipulation that an approval letter from ASU was received. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the license with the mentioned stipulation.

IV. Events Pending Approval of Extension of Premises

- A. College Dropouts, Saturdays, September 4, 11, 25, 2010 (560 S. College Ave.- College Dropouts Bar & Grill): Mike McComb made a motion to approve this extension of premise request with the stipulation that a landlord approval letter was received. It was seconded by Jonni Wolfe. It was the consensus of the committee to approve the extension with the mentioned stipulation.

V. Events for Post Review-Other

- A. There are not events for post review.

Meeting adjourned at 1:36 p.m.

The Committee's next meeting is September 7, 2010 at 1:00pm., at the Tempe Transportation Center, 200 E. 5th St.

Prepared by: Jodie Garth
Reviewed by: Linda Cano

Linda Cano
City of Tempe
Recreation Supervisor



Minutes Tempe Fire Public Safety Personnel Retirement Board June 10, 2010

Minutes of the Tempe Fire Public Safety Personnel Retirement Board, held on Thursday, June 10, 2010, 3:00 p.m., Tempe City Hall – Mayor’s Office, 31 E. 5th Street, Tempe, Arizona.

Board Members Present:

Mayor Hugh Hallman	Joe Brosius
Matt Tripoli	Jim Foley
Rich Woerth	

City Staff Present:

Jan Hort, City Clerk	Brigitta Kuiper, Asst. City Clerk
Lynna Soller, Human Resources	Lourdes Robertson, Human Resources

Guests Present:

Kolby Granville	Cynthia Kelley
David Niederdeppe, Legal Counsel	

Mayor Hallman called the meeting to order at 3:00 p.m.

ITEM I – Consideration of Meeting Minutes

Motion by Joe Brosius to approve the minutes of April 8, 2010. Second by Rich Woerth. Motion passed unanimously.

ITEM II – Motion to Adjourn to Executive Session, if necessary

No action taken.

ITEM III – Retirement Application – Steve Baker - Rehearing

Mr. Niederdeppe explained that this rehearing case is about Mr. Baker working to the end of his DROP period on full duty, and then within a one year timeframe, submitting an application for the Board to consider his retirement as a disability retirement. Since his case was similar to a pending Court of Appeals case, the Board agreed to postpone his hearing until after the Court of Appeals had rendered a decision. The ruling in the Court of Appeals case would make it difficult for Mr. Baker to prevail on a claim that he was disabled when he left the workplace. Mr. Baker has subsequently sent an email to the secretary of the Board stating that he would like to withdraw his request for a rehearing.

Mayor Hallman stated there are employees that choose to work through their term of employment and then are precluded from applying for a disability retirement, even though following their retirement, they are unable to find comparable employment because of an injury. This is something that the legislature should address.

Mayor Hallman asked if the e-mail request to withdraw the rehearing request was considered legally acceptable. Mr. Niederdeppe replied yes, it could be considered legally acceptable, however Mr. Baker should understand that there remains the possibility that the ruling from the Court of Appeals could be overturned by the Supreme Court.

Mayor Hallman commented that he is not convinced that the e-mail hearing withdrawal notification is legally sufficient and noted that the hearing be set for a future date. He also directed that the Board continue to monitor whether or not the case previously mentioned goes to the Supreme Court and if so, the outcome of that ruling.

ITEM IV – Tempe Fire Department Election Results

Ms. Hort explained that in 1999 a Board member was appointed to fill an unexpired term of office; however their term expiration date was recorded incorrectly. The purpose of this agenda item is to ensure that the term expiration dates for Rich Woerth and Matt Tripoli are correct from this point forward.

Mayor Hallman asked Mr. Niederdeppe if there would be any legal ramifications on any votes taken during that time period, given the term expiration discrepancy. Mr. Niederdeppe replied that if there were actions to which there were 3-2 votes, it could possibly be a problem. Mayor Hallman directed Ms. Hort to review the records to make sure no legal matters would have been affected within the last two years in which Mr. Woerth was on the winning side.

A motion was made by James Foley to accept Rich Woerth with the expiration date of 6/30/2012. Second by Joe Brosius. Motion passed 4-0 with Mr. Woerth abstaining from the vote.

A motion was made by James Foley to accept Matt Tripoli with the expiration date of 6/30/2014. Second by Joe Brosius. Motion passed 4-0 with Mr. Tripoli abstaining from the vote.

Jim Foley made a motion to adjourn. Second by Matt Tripoli. Motion carried unanimously.

The meeting was adjourned at 3:10 p.m.

Prepared by: Jaclyn Levin
Reviewed by: Kay Savard

Jan Hort
City Clerk

Minutes Tempe Police Public Safety Personnel Retirement Board July 1, 2010

Minutes of the Tempe Police Public Safety Personnel Retirement Board, held on Thursday, July 1, 2010, 3:00 p.m., Tempe City Hall – Mayor’s Office, 31 E. 5th Street, Tempe, Arizona.

Board Members Present:

Mayor Hugh Hallman
Todd Bailey
Jeff McHenry

Joe Brosius
James Foley

Staff Present:

Brigitta M. Kuiper, City Clerk

Lourdes Robertson, Human Resources

Mayor Hallman called the meeting to order at 3:05 p.m. and welcomed Brigitta Kuiper, new City Clerk.

ITEM I – Consideration of Meeting Minutes

Motion by Joe Brosius to approve the meeting minutes of June 10, 2010; second by Jeff McHenry. Motion passed unanimously. The Executive Session minutes of June 10, 2010 will be placed on the next meeting agenda for consideration.

ITEM III – Retirement Applications

Motion by Jeff McHenry to accept the retirement applications of **Kevin Boontjer, James Jeffries, and Robert Johnson into the DROP program**; second by James Foley. Motion passed unanimously.

ITEM V – Welker Transcriptions

Brigitta Kuiper stated that the Welker transcripts are being provided to the Board as information only.

ITEM II – Motion to Adjourn to Executive Session, if necessary

Motion by Jeff McHenry to adjourn to Executive Session at 3:05 p.m.; second by Joe Brosius. Motion passed unanimously.

The meeting was called back to order at 3:06 p.m.

ITEM IV – Tranter Update – Plaintiff Reply Brief

Brigitta Kuiper stated that the Tranter Reply Brief was also provided to the Board as information only.

Motion by Joe Brosius to adjourn; second by Todd Bailey. Motion passed unanimously.

The meeting was adjourned at 3:07 p.m.

Minutes prepared by: Jaclyn Levin

Brigitta M. Kuiper
City Clerk

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: This is a public hearing to recommend the approval of a Series 12 restaurant liquor license for Tart Frozen Yogurt, LLC, dba Republic Ramen, 1301 East University Drive, #114-116

DOCUMENT NAME: 20100902fsap01 Republic 122204 – LIQ LIC (0210-02)

COMMENTS: Reynaldo Cudilla Perez, Jr. is the Agent for this application

PREPARED BY: Ana Perez, Financial Services Technician II (x8651)

REVIEWED BY: Bruce L. Smith, License & Collection Supervisor (x8509)

LEGAL REVIEW BY: David Park, Assistant City Attorney (x8907)

DEPARTMENT REVIEW BY: Ken Jones, Finance and Technology Director (x8504)

FISCAL NOTE: N/A

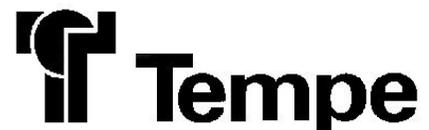
RECOMMENDATION: Recommend approval of this application because the applicant and location have met all city and county liquor licensing criteria.

ADDITIONAL INFO: Tempe city code requires that the Tempe Police Department conduct a background investigation on all liquor license applicants. Additionally, the city code requires that business locations be inspected by Fire Prevention, Building Safety and the County Health Department to ensure the establishment meets minimum city and county code licensing criteria. The Community Development Department has determined that a use permit is not required at this time. The premise has been posted for a 20-day period, per Arizona Revised Statute. No public opposition has been received regarding this liquor license application.

State statute requires municipalities to make one of three recommendations to the Arizona Department of Liquor Licenses and Control (AZ DOL):

1. Approval
2. Denial (this results in a public hearing set by the AZ DOL)
3. No recommendation (this may result in a public hearing set by the AZ DOL)

Staff Summary Report



Council Meeting Date: 9/2/2010

Agenda Item Number: _____

SUBJECT: This is a public hearing to recommend the approval of a Series 12 restaurant liquor license for Mandalay Noodle World LLC, dba Mandalay Noodle World, 3401 South McClintock Drive

DOCUMENT NAME: 20100902fsap03 Mandalay 123835 – LIQ LIC (0210-02)

COMMENTS: Thet Khine Oo is the Agent for this application

PREPARED BY: Ana Perez, Financial Services Technician II (x8651)

REVIEWED BY: Bruce L. Smith, License & Collection Supervisor (x8509)

LEGAL REVIEW BY: David Park, Assistant City Attorney (x8907)

DEPARTMENT REVIEW BY: Ken Jones, Finance and Technology Director (x8504)

FISCAL NOTE: N/A

RECOMMENDATION: Recommend approval of this application because the applicant and location have met all city and county liquor licensing criteria.

ADDITIONAL INFO: Tempe city code requires that the Tempe Police Department conduct a background investigation on all liquor license applicants. Additionally, the city code requires that business locations be inspected by Fire Prevention, Building Safety and the County Health Department to ensure the establishment meets minimum city and county code licensing criteria. The Community Development Department has determined that a use permit is not required at this time. The premise has been posted for a 20-day period, per Arizona Revised Statute. No public opposition has been received regarding this liquor license application.

State statute requires municipalities to make one of three recommendations to the Arizona Department of Liquor Licenses and Control (AZ DOL):

1. Approval
2. Denial (this results in a public hearing set by the AZ DOL)
3. No recommendation (this may result in a public hearing set by the AZ DOL)

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: Request award of a professional services contract with E Group Landscape Architecture/Environmental Design, Inc. for post-design and phase II construction administration for a multi-use path along the Cross-cut Canal.

DOCUMENT NAME: 20100902PWDR04 TRANSPORTATION PLANNING (1101-01)
PROJECT NO. 6002441

COMMENTS: Total cost for the professional services contract is \$123,821.70. One hundred percent (100%) of this project is federally funded by the American Reinvestment & Recovery Act (ARRA) and federal transportation enhancement funds.

PREPARED BY: Donna Rygiel, Engineering Contracts Administrator (x8520)

REVIEWED BY: Jyme Sue McLaren, Deputy Community Development Director (x8803)
Andy Goh, Deputy PW Director/City Engineer (x8896)

LEGAL REVIEW BY: Judi Morgan, Deputy City Attorney (x8779)

DEPARTMENT REVIEW BY: Don Bessler, Public Works Director (x8205)

FISCAL NOTE: One hundred percent (100%) of this project is federally funded by the American Reinvestment & Recovery Act (ARRA) and federal transportation enhancement funds.

RECOMMENDATION: Award professional services contract.

ADDITIONAL INFO: Phase II of this multi-use path project will connect the first phase of the path completed in 2003 near Evelyn Hallman Park to Mill Avenue and Tempe Town Lake. Construction of this one and a quarter mile segment includes a concrete surfaced path, three pedestrian bridges, landscaping, informational nodes with solar powered lighting, and other appurtenances.

E Group Landscape Architecture/Environmental Design, Inc. will provide post design and construction administration services including shop drawing review, plan revisions, responding to requests for information, providing as-built construction plans, and other associated duties.

Staff has negotiated the fee, which represents approximately seven and a half percent (7.5%) of the total project cost, and considers it reasonable for the scope of services. E Group was selected from our consultant on-call list based on a process pursuant to A.R.S. § 34-103.

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

CONTRACT FOR PROFESSIONAL SERVICES

This Contract is made and entered into on the 2nd day of September, 2010, by and between the City of Tempe, an Arizona municipal corporation (“City”), and **E Group Landscape Architecture / Environmental Design, Inc.**, an Arizona corporation (“Consultant”).

City engages Consultant to perform professional services for a project known and described as **Cross-Cut Canal Multi-Use Path Phase II**, Project No. **6002441** (“Project”).

1. SERVICES OF CONSULTANT

Consultant shall perform the following professional services to City in conformance with applicable professional standards and in accordance with the degree of care and skill that a registered professional in Arizona would exercise under similar conditions:

- 1.1. Consultant shall perform design and construction administration services, as described in Exhibit “A” attached.
- 1.2. Consultant has assigned Jason Harrington as the project manager for this Contract. Prior written approval by City is required in the event Consultant needs to change the project manager. Consultant shall submit the qualifications of the proposed substituted personnel to City for approval prior to any substitution or change.
- 1.3. Consultant shall prepare and submit a detailed opinion of probable cost of the Project.
- 1.4. Consultant shall follow and comply with the Public Improvement Project Guide as directed by City.
- 1.5. Consultant shall prepare plans and technical specifications per the requirements of the applicable chapters of the City’s Engineering Design Criteria Manual, latest revision, and the Maricopa Association of Governments (MAG) Uniform Standard Details for Public Works Construction as amended by City. All plans shall be prepared on CAD as required by City. The final original plans shall be submitted on 3 ml double matte black line mylar and shall be 24” x 36” in size.
- 1.6. Consultant shall submit all final construction documents in both hard copy and electronic format. Plans shall be MicroStation or AutoCAD compatible and all other documents shall be Microsoft Office compatible. The software version used shall be compatible to current City standards. Other support documents, for

example, structural calculations, drainage reports and geotechnical reports, shall be submitted in hard copy only.

- 1.7. Consultant shall obtain all necessary permits and licenses required for the performance of its work. Failure of Consultant to obtain said permits prior to the commencement of its work shall constitute a breach of this Contract.
- 1.8. Consultant shall perform the work in a manner and at times which do not impede or delay City's operations and/or functions.
- 1.9. Consultant shall be solely responsible for any repair, replacement, remediation and/or clean-up of any damage done by Consultant including any impairment of access to City or other lawful invitees, by such work performed on this Project.

2. TERM OF CONTRACT

Consultant shall complete all services within three hundred sixty (360) calendar days of the date appearing on the "Notice to Proceed" issued by City. In the event delays are experienced beyond the control of Consultant, the schedule may be revised as determined by City in its sole discretion, and pursuant to Section 3, Consultant's Compensation.

3. CONSULTANT'S COMPENSATION

- 3.1. The method of payment for this Contract is payment by installments. Total compensation for the services performed shall not exceed \$123,821.70, unless otherwise authorized by City. This fee includes an allowance of \$6,951.70 for reimbursable expenses, which in no event will ever be more than actual cost.
- 3.2. City shall pay Consultant by installments, each installment based upon monthly progress reports and related, detailed invoices submitted by Consultant. If detailed invoice(s) are approved by City, such installment payment shall be made within thirty (30) days after City's approval of the progress report and detailed invoice subject to the following limitations:
- 3.3. Consultant acknowledges and agrees that invoices shall be submitted to City for review and approval no more than sixty (60) days after work or services have been performed. City reserves the right to deny in whole or in part, payment to Consultant, including but not limited to, fees and expenses contained in any invoice not received by the City within sixty (60) days of the date such work or services were performed. This in no way shall be construed to waive or diminish City's rights and remedies for otherwise withholding funds under Arizona law.

4. CITY'S RESPONSIBILITIES

- 4.1. City shall designate a project manager during the term of this Contract. The project manager has the authority to administer this Contract and shall monitor

compliance with all terms and conditions stated herein. All requests for information from or a decision by City on any aspect of the work shall be directed to the project manager.

- 4.2. City shall review requests for information related to the Project by Consultant and will endeavor to provide a prompt response to minimize delay in the progress of Consultant's work. City will also endeavor to keep Consultant advised concerning the progress of City's review of the work. Consultant agrees that City's inspection, review, acceptance or approval of Consultant's work shall not relieve Consultant of its responsibility for errors or omissions of Consultant or its subconsultant(s).
- 4.3. Unless included in Consultant's services as identified in Section 1, City may furnish with or without charge, upon Consultant's reasonable request, the following information to the extent it is within City's possession or control:
 - 4.3.1. One copy of its maps, records, laboratory tests, survey ties, and benchmarks, or other data pertinent to the services. However, Consultant shall be solely responsible for searching the records and requesting specific drawings or information and independently verifying said information.
 - 4.3.2. Available City data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.
 - 4.3.3. When required, title searches, legal descriptions, detailed ALTA Surveys, and environmental assessments.

5. TERMINATION AND DEFAULT

- 5.1. City shall be entitled to terminate this Contract at any time, in its discretion. In addition, City may terminate this Contract for default, non-performance, breach or convenience, or abandon any portion of the Project for which services have not been fully or properly performed by Consultant. Termination shall be commenced by delivery of written notice delivered to Consultant, personally or by certified mail at 7337 E. Doubletree Ranch Road, C-165, Scottsdale, AZ 85258. Termination shall be effective upon fourteen (14) days of delivery of notice to Consultant. In addition, this Contract may be terminated pursuant to A.R.S. § 38-511.
- 5.2. Upon the occurrence of Consultant's default, non-performance or breach of the Contract, City may recover any and all damages permitted by law or in equity against Consultant, in addition to termination of the Contract, including but not limited to compensatory damages, together with all costs and expenses as set forth in Section 12 herein.

- 5.3. In the event of Consultant's default, non-performance or breach, City agrees to, before exercising any right or remedy available to it, give Consultant written notice of the default, non-performance or breach. For the thirty (30) days following such notice, Consultant shall have the right to cure such default, non-performance or breach.
- 5.4. If Consultant fails to cure, immediately after receiving notice of termination from City, Consultant shall discontinue performance under this Contract and proceed to close said operations under this Contract. Consultant shall submit a detailed breakdown of completed work to City for evaluation. City shall have the right to inspect Consultant's work to analyze the services completed. Payment to Consultant shall be determined by City upon approval or disapproval of the services completed as of the date of delivery of notice of termination, and pursuant to Section 5.9.
- 5.5. Within ten (10) days of receipt of notice of termination as set forth herein, Consultant shall deliver to City all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by Consultant under the Contract, entirely or partially completed, together with all unused materials supplied by City.
- 5.6. In the event of such termination or abandonment, Consultant shall be paid only for those services performed in a good and workmanlike manner, in accordance with all plans, specifications and governmental requirements completed prior to receipt of said notice of termination, subject to approval by City. To the extent permitted by this Contract, such payment may include reimbursable expenses then incurred by Consultant, in City's sole discretion.
- 5.7. If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by Consultant as determined and approved by City based upon the scope of work set forth in Exhibit "A." However, in no event shall the fee exceed that set forth in Section 3 of this Contract.
- 5.8. City shall make a determination as to approval or denial of any requested final payment within sixty (60) days after Consultant has delivered the last of the completed items and the final appraisal has been submitted to City.
- 5.9. The parties agree that in the event of any damages suffered by City as a result of any delay, default, non-performance or breach by Consultant, Consultant agrees to reimburse City ten percent (10%) of the Contract amount per Section 3.1 for damages caused by its delay. This sum may be deducted from Consultant's payment or anticipated payment for failure to deliver and/or perform as specified. No premium will be awarded to Consultant for delivery and/or performance within the Contract term. Waiver by City of any of the provisions contained in this Section 5.9, or by way of the extension of the Contract term, shall in no way

be deemed to waive or diminish City's rights available by law or in equity under the Contract.

6. INSURANCE

Without limiting any obligations or liabilities, Consultant, at its sole expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance, and with forms reasonably satisfactory to City. Each insurer shall have a current A.M. Best Company, Inc. rating of not less than A-VII. Use of alternative insurers requires prior approval from City.

6.1. General Clauses

- 6.1.1. Additional Insured. The insurance coverage, except workers' compensation and professional liability, required by this Contract, shall name City, its agents, representatives, directors, officials, and employees, as additional insured, and shall specify that insurance afforded Consultant shall be primary insurance, and that any self insured retention and/or insurance coverage carried by City or its employees shall be excess coverage, and not contributory coverage to that provided by Consultant.
- 6.1.2. Coverage Term. All insurance required herein shall be maintained in full force and effect until services required to be performed under the terms of this Contract are satisfactorily completed and formally accepted; failure to do so shall constitute a material breach of this Contract.
- 6.1.3. Primary Coverage. Consultant's insurance shall be primary insurance as respects City, and any insurance or self insurance maintained by City shall be in excess of Consultant's insurance and shall not contribute to it.
- 6.1.4. Claim Reporting. Consultant shall not fail to comply with the claim reporting provisions of the policies or cause any breach of a policy warranty that would affect coverage afforded under the policy to protect City.
- 6.1.5. Waiver. The policies for workers' compensation and general liability shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, directors, officers, and employees for any claims arising out of the work of Consultant.
- 6.1.6. Deductible/Retention. The policies may provide coverage, which contains deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to City under such policies. Consultant shall be solely responsible for deductible or self-insured retentions and City may require Consultant to

secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

6.1.7. Policies and Endorsements. City reserves the right to request and to receive, within ten (10) working days, information on any or all of the above policies or endorsements.

6.1.8. Certificates of Insurance. Prior to commencing services under this Contract, Consultant shall furnish City with certificates of insurance, or formal endorsements as required by the Contract, issued by Consultant's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Contract are in full force and effect. Such certificates shall identify this Contract by referencing the Project number and/or Project name and shall provide for not less than thirty (30) days advance written notice by certified mail to City of cancellation or termination of insurance.

6.1.9. Subconsultants/Contractors. Consultant shall include all subconsultants and subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subconsultant and subcontractor.

6.2. Workers' Compensation. Consultant shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant's employees engaged in the performance of the services; and employer's liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

In case services under this Contract are subcontracted, Consultant shall require all subconsultant(s) to provide workers' compensation and employer's liability to at least the same extent as provided by Consultant.

6.3. Automobile Liability. Consultant shall carry commercial/business automobile liability insurance with a combined single limit for bodily injury and property damages of not less than \$1,000,000 each occurrence regarding any owned, hired, and non-owned vehicles assigned to or used in performance of Consultant services. Coverage will be at least as broad as coverage Code 1 "any auto" (Insurance Service Office policy form CA 0001 1/87 or any replacements thereof). Such coverage shall include coverage for loading and unloading hazards.

6.4. Commercial General Liability. Consultant shall carry commercial general liability insurance with a combined single limit of not less than \$1,000,000. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of

this Contract, which coverage will be at least as broad as Insurance Service Office policy form CG 0002 1-11-88 or any replacement thereof.

In the event the general liability insurance policy is written on a “claims made” basis, coverage shall extend for two (2) years past completion and acceptance of the services as evidenced by annual certificates of insurance.

Such policy shall contain a “severability of interests” provision (also known as “cross liability” and “separation of insured”).

- 6.5. Professional Liability. Consultant retained by City to provide the engineering services required by the Contract will maintain professional liability insurance covering errors and omissions arising out of the services performed by Consultant or any person employed by it, with an unimpaired limit of not less than \$1,000,000 each claim and \$1,000,000 all claims, or 10% of the construction budget, whichever is larger. In the event the insurance policy is written on a “claims made” basis, coverage shall extend for two (2) years past completion and acceptance of services as evidenced by annual certificates of insurance.
- 6.6. Property Coverage – Valuable Papers. Consultant shall carry property coverage on all-risk, replacement cost, agreed amount form with valuable papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the services of Consultant used in the completion of this Contract.

7. WORK FOR HIRE AND OWNERSHIP OF DELIVERABLES

- 7.1. Consultant shall ensure that all the results and proceeds of Consultant’s and any and all work on the Project and any related projects, including that of all agents, employees, officers, and contractors, shall be owned by City, including the copyright thereto, as work for hire. In the event, for any reason, such results and proceeds are not deemed work for hire, Consultant shall be deemed hereby to have assigned to City all of its right, title and interest in such results and proceeds and content to City, without limitation.
- 7.2. All work products (electronically or manually generated), including but not limited to plans, specifications, cost estimates, tracings, studies, design analyses, original mylar drawings, computer aided drafting and design (CADD) file diskettes which reflect all final drawings, and other related products which are prepared in the performance of this Contract, are the property of City and are to be delivered to City on the particular type of storage media on which they are stored (e.g. CD, thumb drive, etc.) before the final payment is made to Consultant. City shall retain ownership of these original works. If approved in writing by City, Consultant may retain the originals and supply City with reproducible copies of the work.

8. CONFLICT OF INTEREST

- 8.1. Consultant agrees to promptly disclose any and all financial and/or economic interest in the property, or any property affected by the work, or the Project itself other than as set forth herein, existing prior to the execution of this Contract. Further, Consultant agrees to promptly disclose any financial or economic interest in the Project property or any property affected by the work, if Consultant gains such interest during the course of this Contract.
- 8.2. If Consultant gains any financial or economic interest in the Project during the course of this Contract, this may be grounds for terminating this Contract at the sole discretion of City.
- 8.3. Consultant shall not engage the services on this Contract of any present or former City employee who was involved as a decision-maker in the selection or approval processes, or who negotiated or approved billings or contract modifications for this Contract.
- 8.4. Consultant agrees that it shall not perform services on this Project for any other contractor, subcontractor, or any supplier, other than City. In addition, Consultant shall not negotiate, contract, or make any agreement with a contractor, subcontractor, or any supplier with regard to any of the work under this Contract, or any services, equipment or facilities to be used on this Project other than with City.

9. COVENANT AGAINST CONTINGENT FEES

Consultant affirms that it has not employed or retained any company or person, other than a bona fide employee working for Consultant to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this clause, City may terminate this Contract without liability, or in its discretion may deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

10. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold harmless City, its agents, officers, officials, and employees from and against all claims, damages, losses, liability and/or expenses, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, mistakes or omissions in the work, services, or professional services of Consultant, its agents, employees, or any other person for whose negligent acts, errors, mistakes or omissions in the work, services, or professional services Consultant may be deemed legally liable in the performance of this Contract, or any breach of the Contract. Consultant's duty herein shall arise in connection with any and all claims for damage, loss, liability and/or expenses attributable to

bodily injury, sickness, disease, death, or injury to, impairment or destruction of any person or property including loss of use resulting therefrom. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

11. DISPUTE RESOLUTION

In the event of a dispute concerning or in any way connected to the Contract or subject Project, the parties agree that the unsuccessful party shall pay to the prevailing party a reasonable sum for attorneys' fees, including taxable and non-taxable costs, fees, costs and disbursements of experts, professionals, paralegals, whether at trial, appeal and/or in bankruptcy court, all of which will be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment. In addition, should City retain and/or utilize legal counsel as a result of a breach by Consultant of any term, covenant or provision of this Contract, in addition to paying any recovery owed to City and/or performing any obligation remaining to be performed, in order to fully cure such breach or default, Consultant shall reimburse City for reasonable attorneys' fees, taxable and non-taxable costs and disbursements, incurred by City in enforcing Consultant's obligations, whether or not a legal action is commenced, including but not limited to the cost of preparing and presenting default notices, demand letters and similar non-judicial enforcement activities.

12. ADDITIONAL SERVICES

Additional services which are outside the scope of basic services contained in this Contract shall not be performed by Consultant without prior written authorization from City, at City's sole discretion. Additional services, when authorized by an executed contract or an amendment to this Contract shall be compensated for by a fee mutually agreed upon between City and Consultant.

13. PROHIBITION ON ASSIGNMENT

This Contract and all duties and obligations of Consultant set forth in this Contract shall not be assignable except by prior written consent of City, and such prohibition shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of Consultant.

14. MISCELLANEOUS PROVISIONS

14.1. Lawful Presence in the United States. Pursuant to A.R.S. §1-502, any individual/sole proprietor who applies for local public benefits by signing this Contract shall also sign a sworn affidavit (Exhibit B) and present one of the documents listed on the affidavit to verify lawful presence in the United States. This Contract shall not be fully executed by the City if the individual/sole proprietor fails to sign the affidavit and present one of the listed documents.

14.2. Federal Provisions. Consultant shall comply with Federal Highway Administration Requirements for Professional Services Contracts (Exhibit "C")

attached hereto and incorporated herein by this reference. Consultant agrees to indemnify and hold City harmless for any and all damages alleged to have resulted from any violations thereof.

- 14.3. American Recovery and Reinvestment Act of 2009. Consultant shall comply with the award terms for assistance agreements that include funds under the American Recovery and Reinvestment Act of 2009 as set forth in (Exhibit "C") attached hereto and incorporated herein by this reference.
- 14.4. Equal Opportunity. Consultant covenants for itself, its employees, agents, assigns and all persons claiming under or through it, that it shall comply with all applicable federal, state, and local laws and ordinances at the time of execution of this Contract and shall not discriminate against or segregate any person or group of persons any person on account of race, color, religion, gender, marital status, sexual orientation, national origin, ancestry, age, physical handicap or medical condition in the performance of this Contract and shall comply with the terms and intent of all applicable federal, state and local governance concerning nondiscrimination. Consultant agrees to post hereinafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this clause.
- 14.5. Legal Compliance. Consultant agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Arizona Fair and Legal Employment Act, and all amendments thereto, along with all attendant laws, rules and regulations. Consultant acknowledges that a breach of this warranty is a material breach of this Contract and Consultant is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the legal right to inspect the documents of any and all Consultants, subconsultants and sub-subconsultants performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Consultant. Consultant hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

- 14.6. Specially Designated Nationals and Blocked Persons List. Consultant represents and warrants to City that neither Consultant nor any affiliate or representative of Consultant (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order No. 13224, 66 Fed.Reg. 49079 (“Order”); (ii) is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s); (iii) is engaged in activities prohibited in the Order; or (iv) has been convicted, pleaded *nolo contendere*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering. In addition, Contractor certifies that it does not have a scrutinized business operation in either Iran or Sudan.

Consultant further agrees to include the provisions set forth in Sections 14.3 through 14.5 in any and all subcontracts hereunder. Any violation of such provisions shall constitute a material breach of this Contract.

- 14.7. Effective Date. This Contract shall be in full force and effect only when it has been approved by the City Council of the City of Tempe, Arizona and when executed by the duly authorized City officials and the duly authorized agent of Consultant.
- 14.8. Governing Law. This Contract shall be governed and interpreted by the laws of the State of Arizona.
- 14.9. Exhibits. All exhibits attached to this Contract are made a part of and are incorporated into, this Contract. If any inconsistencies exist between this Contract and any exhibit hereto, the terms of this Contract shall govern.
- 14.10. Force Majeure. Any prevention, delay or stoppage of this Project for a cause beyond the reasonable control of Consultant due to acts of God, acts of war or terrorism, fire or other casualty, shall, notwithstanding anything to the contrary contained herein, excuse the performance of Consultant, for a period equal to such prevention, delay or stoppage. For purposes of this Section 15.7, a cause shall not be deemed beyond a party’s control if it is within the control of such party’s agents, employees, assigns, contractors or subcontractors.
- 14.11. Entire Agreement. This Contract contains all of the agreements of the parties with respect to the Project and related matters, and no prior agreement, negotiations, postings, offerings, or understanding pertaining to any such matter shall be effective for any purpose unless expressly contained herein.
- 14.12. Consultant’s Good Standing. Consultant hereby warrants and represents that it is an Arizona corporation, licensed to do business in the state of Arizona and

currently in good standing, and that it is not now in violation of any agreement, instrument, contract, law, rule or regulation by which Consultant is bound.

- 14.13. Independent Contractor. Nothing contained in this Contract shall be deemed or construed by the parties hereto or otherwise, to create the relationship of principal and agent, partnership, joint venturer, employer and employee, or any association between City and Consultant. Consultant is an independent contractor and shall be solely responsible for any unemployment or disability insurance payments, or any social security, income tax or other withholdings, deductions or payments that may be required by federal, state or local law with respect to any compensation paid to Consultant hereunder or for any and all services or materials provided by or rendered to Consultant hereunder in connection with the work set forth in this Contract.
- 14.14. Severability. If any provision of this Contract shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and every other term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.
- 14.15. Time is of the Essence. Time is of the essence in this Contract and each and every provision herein, except as may expressly be provided in writing by City.
- 14.16. No Waiver. No breach or default hereunder shall be deemed to have been waived City, except by a writing to that effect signed on behalf of City. No waiver of any such breach or default shall operate as a waiver of any other succeeding or preceding breach or default or as a waiver of that breach or default after written notice thereof and demand by City for strict performance of this Contract. Acceptance of partial or delinquent payments or performance shall not constitute the waiver of any right of City.
- 14.17. Survival. Any and all representations, obligations, indemnities, warranties, covenants, conditions and agreements contained in this Contract which are expressed as surviving the expiration or earlier termination of this Contract, or by their nature, are to be performed, observed or survive, in whole or in part, after the termination or expiration of this Contract term, shall survive the termination or expiration of this Contract.
- 14.18. Retention of Records. City, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Contract. Consultant will retain all books and records related to the services performed for a period of not less than the greater of any applicable federal law retention requirement or five (5) years following termination of this Contract.

- 14.19. Antitrust Violations. City and Consultant recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by City. Therefore, Consultant assigns to City any and all claims for such overcharges. Consultant in all subcontracts shall require all subcontractors to likewise assign all claims for overcharges to City.
- 14.20. Headings. The heading use in this Contract is for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.
- 14.21. No Construction Against Drafting Party. Each party acknowledges that it has had an opportunity to review the Contract with counsel, and such documents shall not be construed against any party that is determined to have been the drafter of the documents.
- 14.22. Notices to Parties:

All notices pursuant to this Contract shall be made in writing and delivered or mailed by certified mail to the parties at the following addresses:

CITY:

Andy Goh, City Engineer
 City of Tempe
 Public Works/Engineering Dept.
 P.O. Box 5002
 Tempe, AZ 85280

CONSULTANT:

Jason Harrington
 E Group Landscape Architecture
 Environmental Design, Inc.
 7373 E. Doubletree Ranch Rd., C165
 Scottsdale, AZ 85258

- 14.23. Non-Appropriation of Funds. If funds appropriated by the City Council or otherwise allocated to perform the work becomes unavailable for payment by City under this Contract, City may delay the work for a period up to six (6) months, after which date if no funds are legally available, City may terminate the Contract at City's sole option. In case of any such delay by City, Consultant may suspend performance of work or services as applicable. However, nothing herein shall be construed to allow termination of the Contract by Consultant for such delay.
- 14.24. Federal Requirements. Consultant shall fully comply with all applicable terms set forth in Exhibits "C" attached hereto, including but not limited to, maintenance of current registrations through the Central Contractor Registration if applicable, maintenance of records in accordance with applicable law, submission of required reports, and compliance with any applicable future federal requirements that may be imposed on the use of or receipt of federal funds, attendant to this Project. Consultant covenants that it shall hold harmless and indemnify City for any failure to fully comply herewith. Such indemnification shall survive the term of this Contract.
- 14.25. Federal Employer Sanctions Law. Consultant understands and acknowledges the applicability of the Federal Employment Eligibility Verification Requirements

(“Requirements”), including but not limited to, Executive Order 12989; Federal Acquisition Regulation E-Verify clause (73 F.R. 67704); and 8 U.S.C. §1324, et seq., as amended from time to time. Consultant warrants current compliance with these and all Federal immigration laws and regulations that relate to their employees, on behalf of the Consultant and all of its subcontractors, including the use of E-Verify to confirm the employment eligibility of all persons hired during a Contract term and current employees performing under the Contract within the United States. Should the Requirements conflict with any applicable state laws or regulations as referenced in 14.3, the Requirements shall prevail.

[SIGNATURE PAGE TO FOLLOW]

**Cross-Cut Canal Multi-Use Path Phase II
Project No. 6002441**

DATED this _____ day of _____, 2010.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Director

ATTEST:

Recommended By:

City Clerk

Deputy PW Director/City Engineer

APPROVED AS TO FORM:

City Attorney

Consultant warrants that the person who is signing this Contract on behalf of Consultant is authorized to do so and to execute all other documents necessary to carry out the terms of this Contract.

CONSULTANT
E Group Landscape Architecture
Environmental Design, Inc.

Signature

Printed Name

Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist

EXHIBIT B
AFFIDAVIT DEMONSTRATING LAWFUL
PRESENCE IN THE UNITED STATES

ARS §§1-501 and 502 require completion of the form to apply to the City for a local public benefit (defined as a grant, contract or loan). You must demonstrate through the presentation of one of the following documents that you are lawfully present in the United States.

LAWFUL PRESENCE IN THE UNITED STATES CAN BE DEMONSTRATED BY
PRESENTATION OF ONE (1) OF THE DOCUMENTS LISTED BELOW.

Please present the document indicated below to the City. If mailing the document, attach a copy of the document to this Affidavit. (If the document may not be copied, present the document in person to the City for review and signing of the affidavit.)

- _____ 1. An Arizona driver license issued after 1996.
Print first 4 numbers/letters from license: _____
- _____ 2. An Arizona non-operating identification License.
Print first 4 numbers/letters: _____
- _____ 3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
Year of birth: _____: Place of birth: _____
- _____ 4. A United States Certificate of Birth abroad.
Year of birth: _____: Place of birth: _____
- _____ 5. A United States passport.
Print first 4 numbers/letters on Passport: _____
- _____ 6. A foreign passport with a United States Visa.
Print first 4 numbers/letters on Passport _____
Print first 4 numbers/letters on Visa _____
- _____ 7. An I-94 form with a photograph.
Print first 4 numbers on I-94: _____
- _____ 8. **A United States Citizenship and Immigration Services Employment Authorization Document (EAD).**
Print first 4 numbers/letters on EAD: _____
- _____ 9. **Refugee travel document.**
Date of Issuance: _____ Refugee Country: _____
- _____ 10. **A United States Certificate of Naturalization.**
Print first 4 digits of CIS Reg. No.: _____
- _____ 11. **A United States Certificate of Citizenship.**
Date of Issuance: _____ Place of Issuance: _____
- _____ 12. **A tribal Certificate of Indian Blood.**
Date of Issuance: _____ Name of Tribe: _____
- _____ 13. **A tribal or Bureau of Indian Affairs Affidavit of Birth.**
Year of Birth: _____ Place of Birth: _____

I DO SWEAR OR AFFIRM UNDER PENALTY OF LAW THAT I AM LAWFULLY PRESENT IN THE UNITED STATES AND THAT THE DOCUMENT I PRESENTED ABOVE AS VERIFICATION IS TRUE.

Signature

Business/Company (if applicable)

Print Name

Address

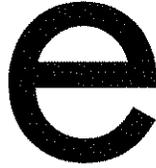
Date: _____

City, State, Zip Code

OFFICE USE ONLY: EMPLOYEE NAME: _____
EMPLOYEE NUMBER: _____

ALL VIOLATIONS OF FEDERAL IMMIGRATION LAW SHALL BE REPORTED TO 1-866-347-2423

EXHIBIT A



May 5, 2010
Revised May 26, 2010
Revised June 24, 2010

Mr. Eric Iwersen
City of Tempe
200 E. Fifth Street
Tempe, AZ 85251

Project: Crosscut Canal (**e group** ref#207112.01)
Subject: Contract Extension - Base Contract and CA/post design

Landscape Architecture
Environmental Design
Land Planning
Urban Design
Site Engineering

Dear Eric,

Per our last meeting event, we are structuring our contract extension request into 2 parts for the Crosscut Canal – Phase II Shared Use Path project. The first part is the request for the added time spent coordinating and revising the plans based upon the multiple SRP issues and the overages of reimbursable expenses. This time is also to include the time involved with the Hallman Park team coordination and the discussions with the neighborhood groups. This time required is a supplement to the original CA allowance from the initial contract.

The second part of the request is for the Construction Administration services from the team. The CA scope of work will include shop drawing review, RFI/ASI responses, providing final As-Build plans for the City of Tempe, field inspections, and requested meeting time. The CA fees are a time and materials not to exceed amount for the design team. This also includes time spent revising and coordinating plans after the 100% sealed plans were submitted on 3/20/10 and is time spent to date.

Part 1 – Base contract additional service request (60% to 90% coordination)

e group – part 1 request	\$13,326.70
TY Lin – part 1 request	\$ 9,285.00
Ritoch-Powell – part 1 request	\$47,925.00
Team sub-total – Part 1	\$70,536.70

Mr. Eric Iwersen
City of Tempe
Crosscut Canal Shared Use Path – Phase II
Page 2 of 3

Part 2 – CA services and post 100% additional service request

CA services

e group – part 2a CA request	\$ 9,500.00
TY Lin – part 2a CA request	\$ 7,000.00
Ritoch-Powell – part 2a CA request	\$11,580.00
Wright Engineering – part 2a CA request	\$ 2,520.00

Team sub-total – Part 2a **\$30,600.00**

Post 100%

e group – part 2b post 100% request	\$ 8,750.00
TY Lin – part 2b post 100% request	\$ 1,200.00
Ritoch-Powell – part 2b – post 100% request	\$12,735.00

Team sub-total – Part 2b **\$22,685.00**

Total Part 2 **\$53,285.00**

Total Additional Fee Request **\$123,821.70**

We are providing supplemental documentation to verify the time and materials spent in an appendix for each of the requests. The attachments also describe the scope of work performed for each part. It also describes the scope of work for the CA services. Please find this information as an attachment to this document.

The work outlined above will be considered as additional services in accordance with our Agreement. Compensation for additional services of **e group** and for reimbursable expenses shall be as stated in our Agreement and outlined above. Please signify your acceptance by signing below and returning one copy to our office.

Extra Work

Should additional services or Owner directed changes to the scope of work or site plan be required, they will be billed as an extra at the following hourly rates:

Principal	\$175.00/hour
Associate	\$150.00/hour
Project Manager	\$125.00/hour
Project Coordinator	\$110.00/hour
Clerical	\$75.00/hour

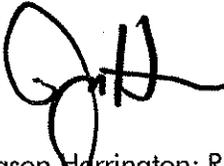
Mr. Eric Iwersen
City of Tempe
Crosscut Canal Shared Use Path – Phase II
Page 3 of 3

* The above hourly rates shall pertain to any additional services executed within six months of the proposal date. Any additional services executed after this six month time period shall be calculated using current **e group** hourly rates.

If in agreement with this proposal, please indicate your acceptance by signing and returning the executed original to our office. The enclosed copy is for your files.

Thank you for the opportunity to submit this proposal. We look forward to working with you on this project.

Sincerely,
e group landscape architecture / environmental design, inc.



Jason Harrington; RLA, ASLA, ASIC
Director of Public Projects

09p142 – City of Tempe – Crosscut Canal Shared Use Path – Phase II – Add Services

ACCEPTED BY:

Mr. Eric Iwersen
City of Tempe

Date

Scope of Work

City of Tempe Crosscut Canal- Phase II Post Design and Construction Observation Services

Project Title: City of Tempe Crosscut Canal Shared Use Path

Project No: 6002441

Date: 5/20/10

Introduction:

Following the preparation of the Construction Documents, we are proposing to provide post design and construction observation services for the Crosscut Canal Shared Use Path. The services under this contract are to be a Time & Materials not to exceed amount service. Service request will be given by the City of Tempe for authorization of work and applied against an allowance. These services are not limited to, but anticipated to include: shop drawing review, request for information (RFI) review and responses, review of submitted materials and products, construction and coordination meetings, pre-final and final punch list events, inspection visits on-site, a plant material tagging event, and as-built record drawings review.

A. Task I – Post Design and Construction Observation Services

1. **Shop Drawing Review** – e group shall review drawings submitted by the Contractor to confirm compliance with plans and design intent. A review log will be produced and maintained for record purposes. All design team consultants for post design services will be coordinated through e group.
2. **RFI review and responses** – e group shall respond to inquiries and clarifications submitted by the Contractor. Requests for information will be responded to in a written format. A review log will be produced and maintained for record purposes.
3. **Submittal reviews** – e group shall perform a review of products and vendor specified data and materials. A review log will be produced and maintained for record purposes.
4. **Construction meetings** – Upon invitation from the City, e group will attend meetings with the Contractor and or City staff for this project. Meetings may be on-site or at an alternate location.
5. **On-site inspection visits** – On-site review of plan installation event shall be conducted to inspect landscape planting locations, irrigation trenching routes , and hardscape layout. e group will prepare a memorandum of findings for that event for record purposes.

6. **Plant materials tagging event** – One off-site event shall be conducted to inspect landscape plant materials recommended by the Contractor. Materials shall be tagged for selection and a photo log will be generated of findings. The group will prepare a memorandum of findings for that event for record purposes.
7. **Pre-final and Final punch list events** – The group shall perform an on-site review of the project installation at a substantial completion level (pre-final). This event shall make recommendations and evaluate the installation in accordance to the construction documents. A memorandum of the Pre-final punch list will be produced for record purposes. A Final punch list event will be performed to review the progress and completion of the Pre-final evaluation. A memorandum of the Final punch list will be produced for record purposes.
8. **As-Built record drawings** – The group will review contractor prepared field redlines to construction documents. This information will be transferred to the original Mylar plans provided by Tempe by hand. The revised Mylar sheets will be scanned to electronic .TIFF files and burned to a CD/DVD. The revised Mylar sheets and the CD/DVD will be returned to the City of Tempe for their records.
9. **Civil Engineering Post Design Services** – Ritoch Powell & Associates (RPA) shall provide the civil engineering in the role of sub-consultant to provide design services to meet construction and post design service requirements for this project. Please refer to Exhibit A for all RPA Engineering fees and proposed scope of work.
10. **Structural Engineering Post Design Services** – TY Lin shall provide the electrical engineering in the role of sub-consultant to provide design services to meet construction and post design service requirements for this project. Please refer to Exhibit B for all TY Lin fees and proposed scope of work.
11. **Electrical Engineering Post Design Services** – Wright Engineering shall provide the architectural improvements to existing buildings in the role of sub-consultant to provide design services to meet construction and post design service requirements for this project. Please refer to Exhibit C for all Wright Engineering fees and proposed scope of work.

Project #
 Project Description / Location: Tempe Crosscut Canal Phase II
 A Principal, e group
 B Project Manager, e group
 C Project Coordinator Technical, e group

Added Services									
Task 1	A: Principal	B: PM	C: Tech			Hrs:	Hrs:	Sub-Total Fee	
1. North Bridge re-work									
1.1 Team Coordination & neighborhood meetings		10				10			
Sub-Total Hours:	0	10	0	0	0		10		
Hourly Rates:	\$ 150.00	\$ 125.00	\$ 110.00						
Sub-Total Fee (Task 1):	\$ -	\$ 1,250.00	\$ -					\$ 1,250.00	
Task 2	A: Principal	B: PM	C: Tech			Hrs:	Hrs:	Sub-Total Fee	
2. ADOT / Historic SHPO Issues									
2.1 Design Team coordination and review		4				4			
Sub-Total Hours:	0	4	0	0	0		4		
Hourly Rates:	\$ 150.00	\$ 125.00	\$ 110.00						
Sub-Total Fee (Task 2):	\$ -	\$ 500.00	\$ -					\$ 500.00	
Task 3	A: Principal	B: PM	C: Tech			Hrs:	Hrs:	Sub-Total Fee	
3. SRP coordination / submittals									
3.1 SRP coordination and field review, submittal		12				12			
Sub-Total Hours:	0	12	0	0	0		12		
Hourly Rates:	\$ 150.00	\$ 125.00	\$ 110.00						
Sub-Total Fee (Task 3):	\$ -	\$ 1,500.00	\$ -					\$ 1,500.00	
Task 4	A: Principal	B: PM	C: Tech			Hrs:	Hrs:	Sub-Total Fee	
4. Progress efforts between 8/09 to 2/10									
4.1 coordination and review for misc. issues of changes		25				25			
Sub-Total Hours:	0	25	0	0	0		25		
Hourly Rates:	\$ 150.00	\$ 125.00	\$ 110.00						
Sub-Total Fee (Task 4):	\$ -	\$ 3,125.00	\$ -					\$ 3,125.00	\$6,375.00
Task 5	A: Principal	B: PM	C: Tech			Hrs:	Hrs:	Sub-Total Fee	
5. Post 100% design services									
5.1 coordination and review for permit SRP / Tempe		70				70			
Sub-Total Hours:	0	70	0	0	0		70		
Hourly Rates:	\$ 150.00	\$ 125.00	\$ 110.00						
Sub-Total Fee (Task 5):	\$ -	\$ 8,750.00	\$ -					\$ 8,750.00	
Task 6	A: Principal	B: PM	C: Tech			Hrs:	Hrs:	Sub-Total Fee	
6. CA services									
6.1 Shop Drawing Review		6							
6.2 RFI review and responses		6							
6.3 Submittal reviews		6							
6.4 Construction meetings		20							
6.5 On-site inspection visits		10							
6.6 Plant materials tagging event		6							
6.7 Pre-final and Final punch list events		6							
6.8 As-Built record drawings		16				76			
Sub-Total Hours:	0	76	0	0	0		76		
Hourly Rates:	\$ 150.00	\$ 125.00	\$ 110.00						
Sub-Total Fee (Task 6):	\$ -	\$ 9,500.00	\$ -					\$ 9,500.00	

TOTAL HOURS 197

Subtotal Direct Labor per hour	\$ 68.90	\$ 57.40	\$ 50.60
Overhead (98%)			
Profit (10%)			
Subtotal Labor Costs per hour	\$ 150.00	\$ 125.00	\$ 110.00
Total Labor Costs	\$ -	\$ 3,250.00	\$ -

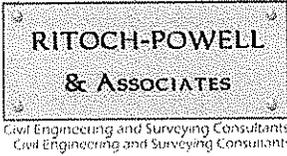
New allowance for Reimbursable expenses to complete the project to bid (Development Services / Mylars)	\$ 5,851.70
Allowance for Reimbursable expenses of CA Mylar scans and DVD burn, mileage, deliveries	\$ 1,100.00
Total Base Consultant fees (e group)	\$ 31,576.70

Structural	TY Lin	60 to 90% added services	\$ 9,285.00
	TY Lin	Post 100% design services	\$ 1,200.00
	TY Lin	Construction Administration services	\$ 7,000.00
	TY Lin sub-total		\$ 17,485.00
Civil/Survey	RPA - Ritoch-Powell & Associates	60 to 90% added services	\$ 47,925.00
	RPA - Ritoch-Powell & Associates	Post 100% design services	\$ 12,735.00
	RPA - Ritoch-Powell & Associates	Construction Administration services	\$ 11,580.00
	RPA - Ritoch-Powell & Associates sub-total		\$ 72,240.00
Electrical	Wright Engineering	Construction Administration services	\$ 2,520.00
Total Contract Costs			\$ 123,821.70

KDC.

Exhibits

- **Exhibit A – RPA Civil sub-consultant proposal**
Supporting documentation dated 6/24/10
- **Exhibit B – TY Lin sub-consultant proposal**
Supporting documentation dated 8/10/09 (60-90% added services)
Supporting documentation dated 6/23/10 (60-90% added services supplement)
Supporting documentation dated 6/23/10 (post design CA services)
- **Exhibit C – Wright Engineering sub-consultant proposal**
Supporting documentation dated 5/3/10 (post design CA services)



Central Office
3838 North Central Avenue, Suite 1250
Phoenix, AZ 85012
Phone: 602.263.1177
Fax: 602.277.6286

Grand Office
1114 Grand Avenue
Phoenix, AZ 85007
Phone: 602.253.6637
Fax: 602.252.5470

June 24, 2010

City of Tempe
Community Development
Attn: Eric Iwersen
21 East 6th Street, Suite 208
Tempe, AZ 85251

Re: Crosscut Canal Multi-Use Path Change Order Request

Dear Eric,

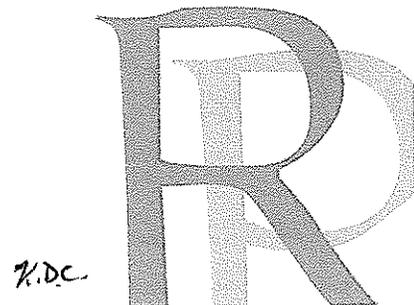
Ritoch-Powell & Associates is regretfully submitting a request for additional funds due to work performed outside of the original scope of services on the above mentioned project. Our intent is to complete all projects based on the original scope of services, within the allotted budget, and on schedule. However this project has experienced unique challenges over an extended period of time that was unforeseen at the projects inception. This request is separated into three distinct categories:

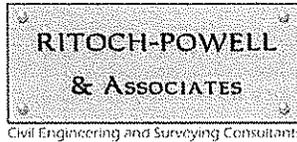
1. **Design Contract Change Order (\$47,925)** - Additional hours spent on completing the design outside of the original scope of services in order to provide sealed mylar plans.
2. **Post Sealed Plans (\$12,735)** - Additional hours spent after sealed mylar plans were submitted to the City and prior to contractor award.
3. **Construction Administration Services (\$11,580)** - Perform construction services for the City once the project has been awarded.

Total Change Order Request Amount \$72,240

Design Contract Change Order

The Scope of Work was dated January 25, 2007 and the 100% bid documents were scheduled to be submitted in April 2008. This original schedule will be approximately two-years delayed. Ritoch-Powell's Scope of Work was approximately 1,000 man-hours for our team to complete the design (not including Allowances or Post Design Services). From the Notice To Proceed date to March 18, 2010 (date of final sealed mylar plans) we have incurred 2,285 total man-hours. As described in the attached man-hour estimate the total man-hours we are requesting reimbursement for are 484 hours. The difference of 1,285 man-hours is NOT being included as part of this change order request. We feel there were changes to the design that are considered a normal part of the design project and as a result are not including those additional 1,285 hours as part of this request. A breakdown of these additional services and associated fees are listed below:





Crosscut Canal Hour Summary (1/25/07 to 3/18/10)

Name	Position	Hours
Bower, Thomas E	Path Designer	1,552
Nies, Josh A	Crosscut Project Manager	259
Bhakta, Andy B	3D Modeler	252
Catt, John W.	Drainage Engineer	112
Circello, Ryan J	Intern	26
Lewis, Steven R	Hallman Project Manager	17
Lorenz, Philip E	Constructability Reviewer	16
Stephenson, Robert J	Survey Crew Chief	29
King, Thomas J	Surveyor	11
McKinnis, Dakotah G.	Surveyor	11
Grand Total		2,285

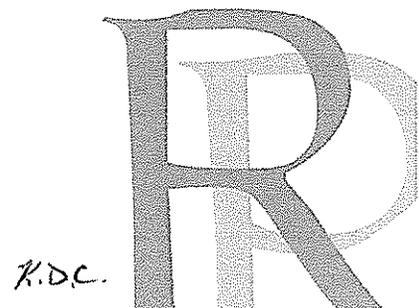
Task 1: North Bridge

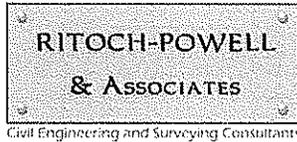
The location of the North Bridge was shifted four times due to multiple design inputs from the City, SRP and the Neighborhood Association. Each time the location was shifted the horizontal and vertical alignments required modification. The 20' wide concrete pads on either side of the canal as requested by SRP also had to be modified. Since the canal is on a curve in this location, the pads had to be completely redesigned as well as the walls that support these pads.

Task 2: Path Alignment

The alignment of the path typically changes as design moves forward, which is understood to be part of the original scope of services. This change can be seen in the addition of the "switchbacks" in order to meet ADA requirements, both at the reservoir and south of Marigold. Note, the recent re-alignment changes on either side of Marigold for the SRP guy-wire clearances was not added to this change order. However there are several instances where the path alignment has changed due to various reasons:

- The alignment along the canal near the reservoir was shifted due to the geotechnical revisions, which ultimately saved the costs of all retaining walls along the canal in this area.
- The alignment near the SRP Maintenance Yard was changed back to its original location for the 100% submittal. Originally our team was given direction to maintain separation from the existing vegetation along the canal. This required the path to be aligned closer to Hallman Park with the addition of a significant amount of gabion walls.
- The alignment was modified each time the north bridge was moved to a new location.
- The tie-in with Hallman Park was modified recently as requested by Valley Rain Construction. These connection points were never part of the original scope of services.





Task 3: Geotechnical Report Revisions

The original geotechnical report prepared by Fugro stated that cut slopes were to be constructed at 6:1 maximum. Our preliminary design detailed the impact to the existing hillside adjacent to the canal near the reservoir would be significant and require either a substantial amount of the hillside to be removed and/or retaining walls be constructed. Given the fact that the hillside is mostly compacted material and rock, Ritoch-Powell requested that Fugro review their original recommendations. Their revisions were less conservative and required changes to the cut slopes, earthwork, retaining walls and drainage facilities and the project had to be "re-modeled". We considered these revisions still too conservative and recommended that Ninyo & Moore provide a follow up report. Ultimately, Ritoch-Powell's persistence in obtaining a satisfactory geotechnical recommendation saved the City of Tempe *several hundred thousand dollars* in design and construction costs.

Task 4: Drainage Analysis

The original Scope of Work stated that a drainage analysis was to be performed to maintain positive drainage. This did not take into account that the hillside adjacent to the SRP Canal would be impacted with the new path alignment and drainage patterns affected. The analysis that was performed is significantly more detailed than expected. An inlet & outlet structure with approximately 170 linear feet of pipe was added due to the flows from the hillside adjacent to the reservoir and a spreader basin added to the plans.

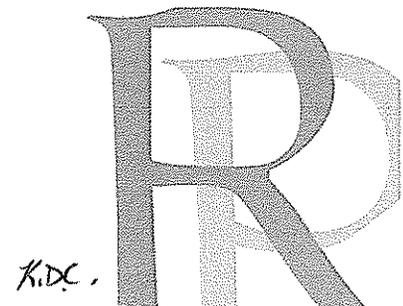
Task 5: Survey

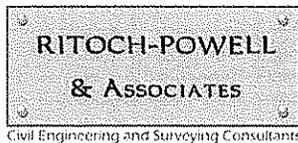
RPA was requested to obtain additional survey to assist in the bridge design. RPA crews were sent to the site to obtain topographic survey at all three bridge locations.

Task 6: Utility Coordination & Design

The utility coordination and design was not part of Ritoch-Powell's original scope of work. Due to the additional work requirements listed in Task 1 through 4 there was additional coordination required with the Hallman Park Team, SRP and egroup in order to obtain utility clearances. Specifically our efforts included:

- SRP Water – a meeting with Bob Gooch was needed each time the north bridge was moved to a new location to ensure his requirements were being met. The bridge was also shifted closer to the canal at the request of SRP, which required the walls and pad to be re-designed.
- SRP Power – a meeting with Paula Atkins was needed each time the path alignment was changed to ensure the minimum horizontal clearances to the existing power poles and vertical clearances to the overhead lines were being met.
- SRP Fiber Optic – As-builts were repeatedly requested from SRP and none were provided. The design was finalized and Ritoch-Powell was performing a site visit and happened to find a fiber optic manhole located near our proposed alignment that had not previously been exposed. As-builts and manhole details were obtained from SRP to determine the location of the existing Fiber Optic line. RPA worked with SRP to come to a solution whereas the line



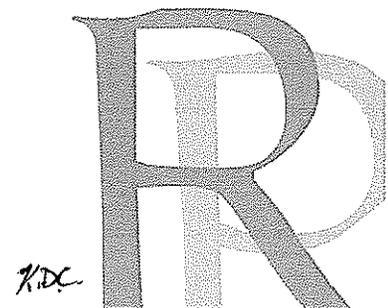


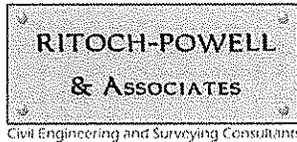
would not require relocation. A concrete slurry was required over the line and a manhole adjusted.

Task 7: Additional Meetings

A total of 26 meetings per the attached documentation have taken place since the NTP not to include internal meetings with egroup, TYLIN or Ritoch-Powell staff. These meetings were located either on-site at Crosscut Canal, at the City offices, or at SRP. There were other un-documented meetings that took place (approximately 8 meetings) that are not being added to this change order.

Ritoch-Powell Crosscut Canal Meeting List			
Date	Time	Location	Description
2/8/2010	10:30-11am	Tempe	Discuss project details with Eric Iwersen
1/29/2010	8-8:30am	Hallman Parking Lot	Meet Valley Rain to review path alignment
11/20/2009	8-10am	McKellips cul-de-sac	Meeting w/core neighborhood group to share latest path and bridge designs
11/19/2009	9-10am	McKellips cul-de-sac	Discuss path alignment and transmission coordination with SRP & Tempe
11/9/2009	10:30-11:30am	SRP PAB1 WECR (8)	Meet at SRP to discuss comments.
11/3/2009	2:30-3:30pm	Tempe Transportation Center Rail Conference Room	Meet with City to discuss project issues and update schedule status
10/1/2009	11-12pm	SRP 1521 N. Project Drive	Meet at SRP 90% Plan Review/Crosscut Canal
9/29/2009	9-10am	Crosscut at McKellips	Meet with SRP in field to discuss alignment and conflicts
9/28/2009	9-10am	Crosscut Canal at McKellips (5N)	Design Review Meeting with SRP & Tempe to discuss alignment and conflicts
9/8/2009	1-2:30pm	Transportation Center Bus Conference Room	Crosscut Canal and Hallman Park Coordination
8/27/2009	7-8am	Crosscut Canal	Site visit w/Steven Nowaczyk-Ninyo & Moore
8/11/2009	10-11:30am	Tempe Public Works Conf.	Crosscut Canal Phase II 90% Plan Review
6/16/2009	8:30-9:30am	East bank Crosscut Canal at 5N north of Tempe Filter Plant	Pre-Design Meeting, Pedestrian Bridge
5/27/2009	7:30-8:30am	Hallman Parking Lot	Crosscut Canal SRP Coordination

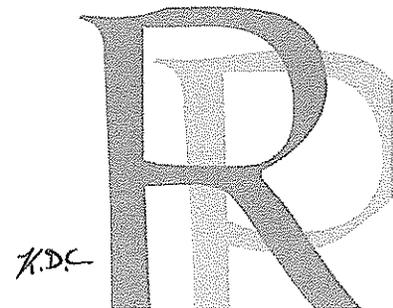


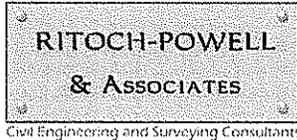


Date	Time	Location	Description
5/12/2009	7:30-9am	Cul-de-sac west end of McKellips @ the park	Evelyn Hallman Park and Crosscut Canal Path coordination
5/6/2009	1-2:30pm	Tempe Transportation Center Bus Conference Room 200 E. 5th Street	Crosscut Canal 60% Plan Review
12/18/2008	1-2pm	Tempe Public Works Conf.	Discuss progress and schedule with Tempe
12/8/2008	7-9pm	North Tempe Multi-Generational Center	Crosscut Canal Public Meeting NTNA Meeting
10/15/2008	7:30-10:30am	Crosscut	Meet with egroup, TYLIN & SRP to discuss layout
9/17/2008	7-9:30am	Canal Park Hallman Park Parking Lot	Meet with hallman group to coordinate
9/10/2008	10:30-11:30am	Tempe	Crosscut Comment Resolution Meeting
5/22/2008	3-4pm	Tempe	Crosscut update meeting
4/15/2008	2:30-4pm	Tempe Public Works Conf.	Crosscut Canal, Signage Coordination
2/27/2008	10-11am	Tempe Public Works Conf.	Crosscut update meeting
1/17/2008	1:30-3:30pm	Tempe Public Works Conf.	Crosscut update meeting
8/30/2007	7:30-9:30am	Project Site Canal Park	Crosscut Canal Field Visit for path alignment

Task 8: Direct Expenses

Due to the additional meetings held at the project site, at the City and at SRP mileage expenses were incurred. The additional work required for all of the above mentioned tasks and interim submittals to the various reviewers created additional reproduction costs. In addition to the above mentioned items, RPA spent numerous hours working with the project team on various issues to ensure that the City of Tempe was ultimately getting a design package that was constructible. The time and direct costs spent doing this is NOT being added to this change order in hopes that the City realizes the effort that RPA truly expended in preparing this design package for the City's benefit.





This Change Order is to replace the previous Change Orders submitted on August, 5 2009, February 8, 2010, April 19, 2010, May 5, 2010, and on May 19, 2010. This **Design Contract Change Order** portion of the request will be executed on a Lump Sum basis for the amount of \$47,925.

Post Sealed Plans

The Post Sealed Plans portion of this project spans the time frame from March 19th to contractor award and covers the following items of work:

Task 9: Attend Meetings to Discuss Comments

Ritoch-Powell attended three meetings to discuss and review the comments made by SRP and the City of Tempe.

Task 10: Address SRP & Tempe Comments

Review comments were compiled and addressed with written responses.

Task 11: Revise Plans & Quantities

Based on the input received at the comment resolution meetings, the design plans were modified to reflect the requested changes. Ritoch-Powell made the design changes in the actual drawings files in order to have ready the plans for final sealed mylars.

Task 12: Prepare Addendum and Exhibits

Not all design changes will be given to the bidding contractors nor will the updated sheets be provided, therefore a written addendum in conjunction with graphic exhibits will be provided. Only those changes that take into account a change or added bid item will be shown as an exhibit. All other changes will be addressed in a written response.

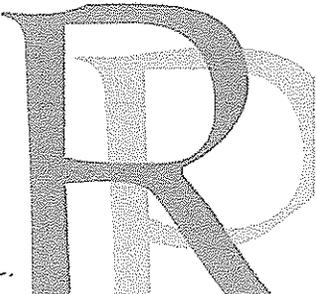
This Change Order is to replace the previous Change Order submitted on May 19, 2010. The **Post Sealed Plans** portion of the request will be executed on a Lump Sum basis for the amount of \$12,735.

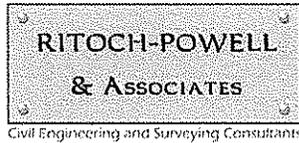
Construction Administration Services

Task 13: Construction Administration Services

RPA shall assist the City during construction by performing shop drawing reviews, responding to Requests for Information (RFI's), attending construction meetings (as required) and visiting the project site at the request of the City or contractor. RPA will track and maintain a log of these items for record purposes.

Construction management and full time observation/inspection are not included in this scope of work. RPA's scope includes construction project review and observation for the remaining part of the work day to become familiar with construction progress, techniques, conformance to plans and redline progress.

K.D.C. 



Record drawing services shall consist of preparing record drawings from the Contractor's red-line drawings for City records and files. The services include the following tasks:

- Review and record field changes from construction plans to electronic files.
- Transfer red-line comments to city's construction plan mylars.
- Provide registered civil engineer seal and signature on cover sheet.
- Deliver record drawings to City.

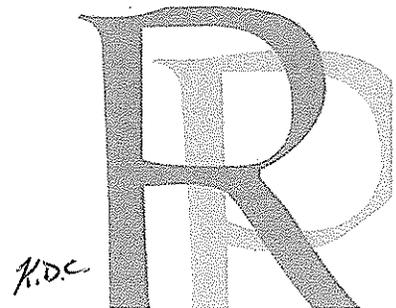
This Scope of Work and associated Fee Estimate shall replace the original Scope and Fee estimate for the construction administration services dated February 7, 2007, May 5, 2010, and on May 19, 2010. This **Construction Administration Services** portion of the request will be executed on a Time and Material basis not to exceed \$11,580 unless otherwise approved.

We respectfully submit this Change Order request and look forward to working with the City again in the near future on another project.

Respectfully,

Josh A. Nies, P.E.
Vice-President

Cc: File RPA Project No. 26025





TASK HOURLY ESTIMATE
 Crosscut Canal Multi-Use Path
 RITTOCH-POWELL & ASSOCIATES

Task	Description	Project Principal	Project Manager	Project Engineer	Engineer/ Designer	CADD Tech	Survey Crew	Clerical	Total Hours By Task
	Design Contract Change Order Items								
1	North Bridge	0	8	16	0	40	0	0	64
2	Path Alignment	0	6	20	0	45	0	0	71
3	Geotechnical Report Revisions	0	6	20	0	50	0	0	76
4	Drainage Analysis	0	4	20	0	35	0	0	59
5	Additional Survey	0	2	6	0	0	12	0	20
6	Utility Coordination	0	45	60	0	0	0	0	105
7	Additional Meetings	0	30	12	0	0	0	0	42
8	Direct Expenses	0	0	0	0	0	0	0	0
		0	101	154	0	170	12	0	437
	Post Sealed Plan Items								
9	Attend Meetings to Discuss Comments	0	8	0	0	0	0	0	8
10	Address SRP & Tempe Comments	0	6	12	0	0	0	0	18
11	Revise Plans & Quantities	0	4	12	0	40	0	0	56
12	Prepare Addendum and Exhibits	0	8	12	0	20	0	0	40
		0	26	36	0	60	0	0	122
	Construction Administration Service Items								
13	Construction Administration Services								
	Request for Information	0	2	0	10	0	0	2	14
	Shop Drawing Review	0	2	0	12	0	0	0	14
	Construction Meetings	0	0	0	10	0	0	2	12
	Project Review & Observation	0	2	0	10	0	0	2	14
	Record Drawings	0	2	0	14	70	0	2	88
		0	8	0	56	70	0	8	142

KDC.



3838 N. Central Ave, Suite 1250
 Phoenix, Arizona 85012
 P: 602-263-1177
 F: 602-277-6286

CITY OF TEMPE

CHANGE ORDER COST PROPOSAL SUMMARY

CONSULTANT: RITTOCH-POWELL & Associates 6/24/2010

PROJECT NAME: Crosscut Canal Multi-Use Path

DIRECT LABOR RATES:

	<u>CLASSIFICATION</u>	<u>MAN HOURS</u>	<u>HOURLY RATES</u>	<u>LABOR COSTS</u>
	Project Principal	0	\$ 77.00	\$ -
	Project Manager	135	\$ 62.00	\$ 8,370.00
	Project Engineer	190	\$ 42.00	\$ 7,980.00
	Engineer/Designer	56	\$ 31.00	\$ 1,736.00
	CADD Tech	300	\$ 28.00	\$ 8,400.00
	Survey Crew	12	\$ 49.00	\$ 588.00
	Clerical	8	\$ 22.00	\$ 176.00
	Total Hours	<u>701</u>		
			Total Direct Labor	\$ 27,250.00
Overhead Rate	141.00%		Total Labor with Overhead	<u>\$ 38,423.00</u>
			Subtotal Labor	\$ 65,673.00
Fixed Fee	10%		Net Fee (Subtotal Labor X Fixed Fee)	<u>\$ 6,567.00</u>
			Total Labor with Fixed Fee	<u>\$ 72,240.00</u>
			TOTAL PROPOSED FEE	\$ 72,240.00

Signature *Josh A. Nies*

Signature

 Vice-President

 Tempe Project Manager

 6/24/10
 Date

 Date

August 10, 2009

City of Tempe
Attn: Eric Iwersen
200 E Fifth Street
Tempe, AZ 85251

Crosscut Canal Multi-Use Path (Phase II)

ADDITIONAL SCOPE OF WORK

Dear Mr. Iwersen:

TYLIN is requesting additional funds to cover what we feel is out of scope work and rework required to complete this project. An explanation of the different items follows:

Task 1. North Bridge

The alignment for the North bridge changed three times, this change required the computation of geometrics and elevations for the bridge each time and redrafting the General Plan and Elevation plan sheets, as well as additional time for coordination with SRP and RPA.

Task 2. Redesign Slab

The precast slab for the Middle bridge was redesign per new live load loading provided by the COT.

Task 3. New Railing Design

The custom railing including its footings and attachments to the Middle and South bridges need to be design, this item was not included in the original Scope of Services.

Task 4. Retaining Wall Calculations

The COT requires calculations for the Standard ADOT retaining walls proposed for this project.

Task 5. New Approach Slabs

The North bridge will require approach slabs design for ASSHTO HS-20 live loading, this item was not included in the original Scope of Services.

TYLININTERNATIONAL

engineers | planners | scientists

Task 6. Additional Coordination and Meetings

Due to the out of scope work and rework performed as describe in Tasks 1 thru 5, additional time for coordination and meetings were required and will be needed to complete the project.

TYLIN respectfully submits this request and looks forward to working with the COT in other future projects.



Dan Heller, PE
Vice President

T·Y·L·I·N·I·N·T·E·R·N·A·T·I·O·N·A·L

Consulting Engineers
60 E. Rio Salado Parkway, Suite 501
Tempe, AZ 85054
(480) 968-8814

Agreement for the Provision of Limited Professional Engineering Services

Date: 6/23/2010
Project: #221639

Client: City of Tempe
31 East 5th Street
Tempe, Arizona 85281

Project: Crosscut Canal Multi-Use Path Phase II
Tempe, Arizona

Location: Tempe, Arizona

Scope of Services: The following Post Design Services are anticipated:
• Construction Meetings (Up to 3)
• Review shop drawing submittals
• Respond to RFI's during construction
• As-built drawings

Excluded Services: 1. Design requested by the Contractor for unforeseen conditions
2. Field inspection services

Supply by Client: 1. All submittals and RFI's through the resident engineer.

Professional Fees: Time and Materials \$7,000
Rates as follows:
Senior Project Engineer \$145.00
Design Engineer \$105.00
CAD Technician \$ 85.00

Changes to the Work: a contract modification will be prepared for approval.

Direct Expenses: Mileage at \$0.50 per mile

Special Conditions: None

The General Terms and Conditions attached hereto are incorporated into this Agreement in their entirety.

Accepted for T·Y·L·I·N·I·N·T·E·R·N·A·T·I·O·N·A·L
by:

Accepted by Client:


Daniel Heller, PE
Vice President

K.D.C

T.Y. Lin International
 60 E. Rio Salado Parkway
 Suite 501
 Tempe, Arizona 85281

**Crosscut Canal Multi-Use Path
 Change Order Proposal**

FIGURES ROUNDED TO THE NEAREST DOLLAR

ESTIMATED DIRECT LABOR

Classification	Estimated Labor Hours	Avg. Hourly Rate	Labor Cost
Project Manager	9	\$52.26	\$470
Project Engineer	48	\$37.06	\$1,779
Engineer/Designer	0	\$30.07	\$0
Technician/Drafter	36	\$27.31	\$983
Secretarial/Clerical	0	\$17.77	\$0
	<u>93</u>		<u>\$3,232</u>
Provisional Overhead	160.00%	Total Estimated Labor	\$5,171
		Subtotal	<u>\$8,403</u>

ESTIMATED DIRECT EXPENSES

(Listed by item at estimated actual cost -no Markup)

Reproduction/Copying	\$0
Deliveries/Messengers	\$0
Mileage	<u>\$0</u>
Total Estimate Expenses	\$0

ESTIMATED OUTSIDE SERVICES AND CONSULTANTS

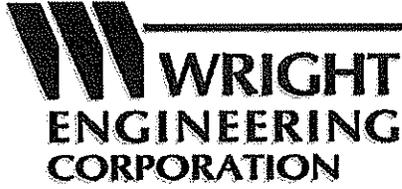
(Listed by Firm or Name at Estimated Cost - NO MARKUP)

FIRM	HOURS	COST
NONE		
		<u>\$0</u>
	Total Estimated Outside Services	\$0
	Fixed Fee (Direct Labor + Overhead x Multiplier) (10.5%)	\$882
	TOTAL ESTIMATED COST	\$9,285

 CONSULTANT FIRM SIGNATURE

 DATE

K.D.C.



ELECTRICAL ENGINEERING & DESIGN

#5296
Additional Service Agreement

Date: 05/03/2010
To: E Group
7337 E Doubletree Ranch Rd.
Suite C-165
Scottsdale, AZ 85258

Attn: Jason Harrington

Project Name/WEC#: Tempe Crosscut Canal Lighting WEC #07204

Request for additional service provided by Wright Engineering, Corp.

Professional Services: The additional scope of work needed for construction services will consist of the following.

1. Attend One Pre-Construction and One field meeting.
2. Review and respond to contractor RFI's.
3. Review contractor shop drawing submittals.
4. Prepare field directives and addendums as necessary.
5. Perform one (1) site inspections with a written report of findings and punch list.

Type of Billing: Time and Material, NTE: \$2,520 (Two Thousand Five Hundred Twenty Dollars).

If this meets with your approval, please sign in the space provided below and return the original to Wright Engineering so that these services may be scheduled. Please keep a copy of this for your records.

Wright Engineering, Corp.

Signature: R. Scott Wright
By: R. Scott Wright, P.E.
Title: President
Date: May 3, 2010

E Group

Signature: _____
By: _____
Title: _____
Date: _____

RDC

EXHIBIT C

FEDERAL PROVISIONS FEDERAL HIGHWAY ADMINISTRATION REQUIREMENTS PROFESSIONAL SERVICES CONTRACTS

NOTIFICATION OF FEDERAL PARTICIPATION

To the extent required by law, in the announcement of any third party contract award for goods or services having an aggregate value of \$500,000 or more, the Recipient agrees to specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of that Federal assistance as a percentage of the total cost of that third party contract. This project is expected to have the following funding, federal 100% and local 0%.

DISADVANTAGED BUSINESS ENTERPRISES

A goal for the utilization of Disadvantaged Business Enterprises (DBE's) will **not** be established for the contract.

AWARD AND EXECUTION OF CONTRACT

When a contract is funded, either wholly or in part, by federal funds, an award of contract may be made contingent upon the successful bidder obtaining an appropriate license from the State Registrar of Contractors, in accordance with Arizona Revised Statutes 32-1101 through 32-1170.03. The license must be obtained within 60 calendar days following opening of bid proposals. No adjustment in proposed bid prices or damages for delay will be allowed as a result of any delay caused by the lack of an appropriate license.

Failure to acquire the necessary licensing within the specified period of time shall result in either award to the next lowest responsible bidder, or re-advertisement of the contract, as may be in the best interests of the Department.

Licensing information is available from:

Registrar of Contractors
800 W. Washington
6th Floor
Phoenix, AZ 85007
Phone: (602) 542-1502

SCOPE OF WORK

Significant Changes in the Character of Work:

- (1) The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in

quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

When the Department makes alterations in the details of construction or Specifications, that are limited in scope, to the extent that the cost of the alterations will not exceed \$5,000.00, the Engineer and the contractor may reach agreement upon the scope of work and a lump sum amount to cover the cost of the work to be performed. This agreement shall be reflected in a letter from the Engineer to the contractor, which, when executed by both parties, shall have the same force and effect as a supplemental agreement. Work shall not proceed until both parties have signed the agreement. This work will be paid for as Miscellaneous Work, at the lump sum amount agreed upon, which item will not be a part of the Bidding Schedule, but will be established by the Engineer through the initial letter agreement.

- (2) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or, by affecting other work, cause such other work to become significantly different in character, an adjustment, excluding anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the Engineer may determine to be fair and equitable.
- (3) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
- (4) The term "significant change" shall be construed to apply only to the following circumstances:
 - (a) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction or
 - (b) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

Suspensions of Work Ordered by the Engineer:

- (1) If the performance of all or any portion of the work is suspended or delayed by the Engineer, in writing, for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction

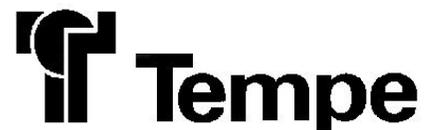
industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the Engineer, in writing, a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

- (2) Upon receipt, the Engineer will evaluate the contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the Engineer's determination whether or not an adjustment of the contract is warranted.
- (3) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
- (4) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

Differing Site Conditions:

- (1) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
- (2) Upon written notification, the Engineer will investigate the conditions and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The Engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
- (3) No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
- (4) No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: Request approval of job order no. 9 with Quest Civil Constructors, Inc. for reclaimed water recharge wells nos. 2 and 3 at Ken McDonald Golf Course.

DOCUMENT NAME: 20100902PWDR05 ENGINEERING ADMINISTRATION (0803-02-01) PROJECT NO. 3209301

COMMENTS: Total amount of job order no. 9 is \$65,820 and the project contingency amount is \$5,000.

PREPARED BY: Donna Rygiel, Engineering Contract Administrator (x8520)

REVIEWED BY: Don Hawkes, Interim Deputy Public Works Director/Water Utilities (x2660)
Andy Goh, Deputy PW Director/City Engineer (x8896)

LEGAL REVIEW BY: Judi Morgan, Deputy City Attorney (x8779)

DEPARTMENT REVIEW BY: Don Bessler, Public Works Director (x8205)

FISCAL NOTE: Sufficient funds are available in Capital Improvement Fund No. 3209301.

RECOMMENDATION: Approve job order no. 9 with Quest Civil Constructors, Inc., through existing job order contract no. C2008-250.

ADDITIONAL INFO: Reclaimed water generated at the Kyrene Water Reclamation Plant is to be used for groundwater recharge through a proposed series of wells to be located at the Ken McDonald Golf Course.

The scope of work for this contract includes exploration drilling to determine soil layers to about 180 feet deep at each proposed site, for recharge wells nos. 2 and 3 located at Ken McDonald Golf Course. Engineering staff is coordinating with staff at the golf course to minimize disruption to the course and customer play.

The project contingency has been established at \$5,000, which is approximately seven and one-half percent (7.5%) of the contract amount, to cover possible unforeseen conditions during construction.

Staff has reviewed the proposal from Quest Civil Constructors, Inc., and found it to be in order. Quest Civil Constructors, Inc., is one of three contractors previously selected through a qualifications based process consistent with A.R.S. § 34-601 through 611 for construction services.

CITY OF TEMPE, ARIZONA
PUBLIC WORKS DEPARTMENT
DIVISION OF ENGINEERING

JOB ORDER NO. 9 TO QUEST CIVIL CONSTRUCTORS, INC.
THROUGH EXISTING CONTRACT NO. C2008-250

**RECLAIMED WATER RECHARGE WELLS NOS. 2 AND 3
AT THE KEN MCDONALD GOLF COURSE EXPLORATION DRILLING**

PROJECT NO. 3209301

This **JOB ORDER NO. 9** is entered into on this 2nd day of September, 2010, by and between the **City of Tempe**, an Arizona municipal corporation (“City”) and **Quest Civil Constructors, Inc.**, an Arizona corporation (“JOC”), through the existing Contract made and entered into by and between the parties on December 11, 2008, (Contract No. C2008-250) along with that certain Amendment No. 1 entered into on May 28, 2009 and Addendum No. 1 on December 10, 2009 (collectively “Contract”).

SECTION 1 – JOB ORDER PRICE AND WORK LOCATION: JOC shall furnish any and all plant, materials, labor, construction equipment, services and transportation (all applicable taxes included) required for performing all work for the construction of Reclaimed Water Recharge Wells Nos. 2 and 3 at the Ken McDonald Golf Course, (Project No. 3209301) (“Project”) for the sum of Sixty Five Thousand Eight Hundred Twenty Dollars (\$65,820.00), as detailed in the Proposal (Exhibit “A”) attached hereto and incorporated herein by this reference, and to completely and totally construct the same and install the materials therein for the Project, in a good and workmanlike and substantial manner and to the satisfaction of City or its properly authorized agents and strictly pursuant to and in conformity with the Specifications and Plans for the Project and other documents that may be requested by City through its Engineer or other properly authorized agents, as provided herein. The full street or physical address of the construction work location (“Work Location”) is 800 E. Divot Drive, Tempe, Arizona. JOC shall list the Work Location in any subcontract related to this job order at any level and each subcontractor shall

likewise include the Work Location in any of its subcontracts.

SECTION 2 – REQUIRED SUBMITTALS: JOC shall submit the completed forms referenced in the Forms Appendix (Exhibit “B”) attached hereto to City for approval prior to receipt of a Notice to Proceed issued by City for the Project.

SECTION 3 – AMENDMENT: City of Tempe Contract No. C2008-250, as amended on May 28, 2009 and December 10, 2009, the terms and conditions contained therein and all exhibits attached to the Contract and to this Job Order No. 9, are by reference incorporated into this Job Order No. 9. All provisions of the underlying Contract where not inconsistent with this Job Order No. 9 shall remain binding on the parties.

SECTION 4 – CONTRACT TERM: Work shall start as soon as practicable, and in no case later than seven (7) calendar days after the Notice to Proceed is issued by City, and shall be completed within thirty (30) calendar days thereafter.

[SIGNATURE PAGE TO FOLLOW]

Reclaimed Water Recharge Wells Nos. 2 and 3 at the Ken McDonald Golf Course
Exploration Drilling
Project No. 3209301

DATED this _____ day of _____, 2010.

CITY OF TEMPE, ARIZONA

By: _____
Mayor

By: _____
Public Works Manager

ATTEST:

Recommended by:

City Clerk

Deputy PW Director/City Engineer

APPROVED AS TO FORM:

City Attorney

JOC warrants that the person who is signing this Job Order on behalf of the JOC is authorized to do so and to execute all other documents necessary to carry out the terms of this Job Order.

QUEST CIVIL CONSTRUCTORS, INC.

By: _____
Name

Its: _____
Title

Federal I.D. No./Social Security No.

Certified to be a true and exact copy.

Karen M. Fillmore
Records Specialist

EXHIBIT B

FORMS APPENDIX

The following forms shall be completed and submitted with each Job Order.

LIST OF SUBCONTRACTORS SB-1

STATUTORY PERFORMANCE BOND PB-1

STATUTORY PAYMENT BOND PB-3

STATUTORY PERFORMANCE BOND
PURSUANT TO TITLE 34,
CHAPTER 6, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That _____ (“Principal”) and _____,
a corporation organized and existing under the laws of the State of _____, with
its principal office in the City of _____ (“Surety”), are held and firmly bound
unto _____ (“Obligee”) in the amount of _____ Dollars
(\$_____), for the payment whereof, the said Principal and Surety bind themselves,
and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by
these presents.

WHEREAS, the Principal has entered into a certain written Contract with the
Obligee, dated the 2nd day of September, 2010, to complete Project No. 3209301, which Contract
is hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said
Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions
and agreements of said Contract during the original term of said Contract and any extension
thereof, with or without notice to the Surety, and during the life of any guaranty required under
the Contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions,
and agreements of any and all duly authorized modifications of said Contract that may hereafter
be made, notice of which modifications to the Surety being hereby waived; then the above
obligation shall be void, otherwise to remain in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 6, of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title and Chapter, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by the Court. The performance under this bond is limited to the construction to be performed under this Contract and does not include any design services, preconstruction services, finance services, maintenance services, operations services or any other related services included in the Contract.

DATED this ____ day of _____, 2010.

PRINCIPAL SEAL

BY: _____

**

SURETY SEAL

BY: _____

AGENCY ADDRESS

** Surety hereby acknowledges they are licensed to do business in the State of Arizona **

STATUTORY PAYMENT BOND
PURSUANT TO TITLE 34,
CHAPTER 6, OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That _____ (“Principal”) and _____,
a corporation organized and existing under the laws of the State of _____,
with its principal office in the City of _____ (“Surety”), as held and firmly
bound unto _____ (“Obligee”) in the amount of _____
Dollars (\$_____), for the payment whereof, the said Principal and Surety bind
themselves, and their heirs, administrators, executors, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the
Obligee, dated the 2nd day of September, 2010, to complete Project No. 3209301, which Contract
is hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, the condition of this obligation is such, that if the said
Principal shall promptly pay all monies due to all persons supplying labor or materials to the
Principal or the Principal’s Subcontractors in the prosecution of the construction provided for the
Contract, then this obligation shall be void, otherwise to remain in full force and effect;

Provided, however, that this bond is executed pursuant to Title 34, Chapter 6,
Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with
the provisions, conditions and limitations of said Title and Chapter to the same extent as if it
were copied at length in this Contract.

The prevailing party in a suit on this bond shall recover as a part of the judgment
reasonable attorney fees that may be fixed by the Court.

DATED this _____ day of _____, 2010.

PRINCIPAL SEAL

BY: _____

**

SURETY SEAL

BY: _____

AGENCY ADDRESS

** Surety hereby acknowledges they are licensed to do business in the State of Arizona **

**CITY OF TEMPE
TEMPE, ARIZONA
DEPARTMENT OF PUBLIC WORKS**

**JOC CONTRACTOR'S AFFIDAVIT
REGARDING
SETTLEMENT OF CLAIMS**

_____, Arizona

Date _____

**RECLAIMED WATER RECHARGE WELLS NOS. 2 AND 3 AT THE KEN MCDONALD
GOLF COURSE EXPLORATION DRILLING
PROJECT NO. 3209301**

To the City of Tempe, Arizona

This is to certify that all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above Project, whether by subcontractor or claimant in person, have been duly discharged or will be discharged after receipt of the final payment from the City of Tempe for the above Project.

The undersigned, for the consideration of \$ _____, as set out in the final pay estimate, as full and complete payment under the terms of the Contract, hereby waives and relinquishes any and all further claims or right of lien under, in connection with, or as a result of the above described project against the City of Tempe. The undersigned further agrees to defend, indemnify and save harmless the City of Tempe against any and all liens, claims of liens, suits, actions, damages, charges and expenses whatsoever, which said City may suffer arising out of the failure of the undersigned to pay for all labor performances, materials, and/or equipment furnished for the performance of said installation.

Signed and dated at _____ this _____ day of _____, 2010.

Job Order Contractor

By: _____

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was subscribed and sworn to before me this ____ day of _____, 2010.

Notary Public

[Notary Seal]

EXHIBIT A



CIVIL CONSTRUCTORS
FABRICATORS
CONSTRUCTION MANAGERS

July 26, 2010

Mr. Ken Halloran, P.E.
Senior Civil Engineer
City of Tempe
Public Works/Engineering
31 East 5th Street
Tempe, AZ 85281

Sent Via: Email/US Mail
Ken_Halloran@tempe.gov

RE: Miscellaneous Horizontal Construction and Minor Water and Wastewater Treatment Plant Improvements, Contract C2008-250

SUBJECT: PROPOSAL
**Ken McDonald Golf Course – Exploration Drilling for Recharge Wells 2 & 3
REVISION #1**

Dear Mr. Halloran,

Quest Civil Constructors, Inc. (Quest) proposes to perform improvements outlined below for the Ken McDonald Golf Course – Exploration Drilling for Recharge Wells 2 & 3.

Job Order Scope of Work:

Base Bid Items

Furnish and abandonment of two (2) 10 inch exploration bores at the Ken McDonald Golf Course.

Job Order Schedule:

Job Order is to be completed thirty (30) calendar days after mutually agreed upon Notice to Proceed. It is assumed that a Notice to Proceed shall be issued by the City as soon as possible after the September 2, 2010 City Council approval in order to accommodate completion of all work by October 1, 2010.

Job Order Payment:

Quest proposes to perform the Job Order for the following amount(s):

Description	Amount
Base Bid	Furnish and abandonment of two (2) 10" exploration bores \$ 60,820
Allowance	SRP permits and requirements, additional drilling \$ 5,000
	TOTAL \$ 65,820

KH

Pricing assumes that exploration bores will each be drilled and abandoned to a depth of no more than 180 feet. Drilling and abandonment to agreed upon final depths greater than 180 feet shall incur additional costs. These costs shall be assessed at a rate of \$78 per lineal foot.

Job Order Proposal Clarifications:

1. Construction will be in accordance with MAG standards as applicable.
2. Work will be accomplished with one (1) mobilization, one (1) equipment move between the two drill sites and one (1) demobilization.
3. Drilling will be accomplished using the air rotary casing hammer method.
4. Soil conditions are assumed to be unconsolidated gravel, sand, silt and clay.
5. An Owner's Representative / Hydrologist shall determine the exact locations of the exploration bores. These locations shall be accessible to required drilling equipment and shall be free and clear of any obstructions or known safety hazards.
6. Exploration boring samples shall be collected by the Owner's Representative / Hydrologist. Quest will complete and furnish a bore log to the owner upon completion of the exploration boring.
7. The exploration boring will be abandoned using a full depth bentonite grout seal (plug). The exploration bore shall be abandoned immediately after an agreed upon final depth is reached and samples are obtained by the Owner's Representative / Hydrologist (prior to drill rig leaving site).
8. Work will take place during normal working hours and will be coordinated with Golf Course staff. Material and equipment will be staged on site during non-working hours in a location to be determined during the preconstruction meeting with the Owner.
9. Quest will obtain a water hydrant meter to be used for construction water.
10. All water produced by the drilling operation shall be disposed of on site at locations within 300 feet of each drilling site using temporary piping. No piping shall enter adjacent SRP right of way.
11. Site will be returned to as close to original conditions as possible.
12. Costs associated with the following items are NOT included in this Job Order Proposal:
 - Additional mobilizations, equipment moves, or demobilizations.
 - Drilling through bedrock or over consolidated soil.
 - Temporary piping or other equipment required to dispose of water at locations greater in distance than 300 feet away from drilling locations.
 - Required precautions such as ramps or signage if temporary piping must enter SRP right of way.
 - Restoration of site damage that is the result of negligence by golf course maintenance staff.

KI

- Special inspections, permits, third party testing and other fees with the exception of the Maricopa County Dust Control Permit.
- SRP right of way permits or any additional special requirements for temporary piping or other equipment on SRP property.
- Noise dampening equipment.
- Removal, handling or disposal of any hazardous or regulated material.
- Construction engineering services or engineering drawings.
- Site survey, layout or certified as-built documents.
- Damage to unmarked/unknown existing utilities.
- Traffic control.
- Administrative fees associated with obtaining an AZPDES Discharge Permit.
- Pavement saw cutting, removal, or replacement.
- Split spoon sampling.

13. Quest reserves the right to request additional compensation for delays outside of Quest's control.

This proposal is valid for thirty (30) calendar days. If you have any questions or require additional information, please do not hesitate to contact our office.

Sincerely,
QUEST CIVIL CONSTRUCTORS, INC.

Cary Broschat

ENC. Cost Summary
Subcontractor Quote

Ken McDonald Golf Course
Exploration Drilling for Recharge Wells 2 and 3
Cost Proposal

Order Cost Summary	Amount
--------------------	--------

Cost Summary

General Conditions		\$ 12,591
Mobilization / Demobilization		\$ 9,600
Drill and Adandon Exploration Bore #2		\$ 11,880
Drill and Abandon Exploration Bore #3		\$ 11,880
Site Supervision		\$ 5,572

Total Direct Cost Of The Work = \$ 51,523

Overhead and Profit Multiplier	10.00%	\$ 5,152
Subtotal =		\$ 56,675

Insurance	1.50%	\$ 908
Payment and Performance Bonds	1.25%	\$ 757
Arizona / County / City Privilege Taxes	6.30%	\$ 2,480

Total Cost of Work = \$ 60,820

Additional Drilling

Additional Drilling and Abandonment per Foot	\$ 66
--	-------

Total Direct Cost per foot for Additional Drilling = \$ 66

Overhead and Profit Multiplier	10.00%	\$ 7
Per foot Subtotal =		\$ 73

Insurance	1.50%	\$ 1
Payment and Performance Bonds	1.25%	\$ 1
Arizona / County / City Privilege Taxes	6.30%	\$ 3

Total Cost per foot for Additional Drilling= \$ 78

KA

Ken McDonald GC - Exploration Drilling For Wells 2 & 3

Bid-Item	Description	Quantity	UM	Unit Cost	Total Cost
00	General Conditions Work Comp 6306 7.50%	1.00	LS	12,590.8000	12,590.80

00 General Conditions		1.00	LS	12,590.8000	12,590.80		
Unit Cost	Material	Labor	Equipment	Other	Subcontractor	Plug	Truck
		10,162.20	1,496.60	100.00	832.00		
Total Cost:		10,162.20	1,496.60	100.00	832.00		

00A Staff & Travel		1.00	LS	11,658.8000	11,658.80		
Prod. per Hr	Day Lgth	Hrs Req	Lbr Typ	Standard	Man. Hrs		
0.01	8.00	80.00	Standard		160.00		
Work Comp 6306	7.50%	Days Req: 10.00			Prod./Man Hr: 0.006250		
Unit Cost	Material	Labor	Equipment	Other	Subcontractor	Plug	Truck
		10,162.20	1,496.60				
Total Cost:		10,162.20	1,496.60				

Description	Quantity/Hours	UM	Unit Cost	Total Cost
L Project Leader	0.75 / 80.00	HR	92.3900	5,543.40
E 1/2 Ton Pickup	0.75 / 80.00	HR	10.6900	641.40
L Engineer	1.00 / 80.00	HR	51.0800	4,084.80
E 1/2 Ton Pickup	1.00 / 80.00	HR	10.6900	855.20
L Administrative Assistant	0.25 / 80.00	HR	26.7000	534.00

00B Special Requirements		1.00	LS	100.0000	100.00		
Prod. per Hr	Day Lgth	Hrs Req	Lbr Typ	Standard	Man. Hrs		
	8.00						
Work Comp 6306	7.50%	Days Req:			Prod./Man Hr: 0.000000		
Unit Cost	Material	Labor	Equipment	Other	Subcontractor	Plug	Truck
				100.00			
Total Cost:				100.00			

Description	Quantity/Hours	UM	Unit Cost	Total Cost
O Permits	1.00	AL	100.0000	100.00

00C Utility Locating Service		8.00	HR	104.0000	832.00		
Prod. per Hr	Day Lgth	Hrs Req	Lbr Typ	Standard	Man. Hrs		
	8.00						
Work Comp 6306	7.50%	Days Req:			Prod./Man Hr: 0.000000		
Unit Cost	Material	Labor	Equipment	Other	Subcontractor	Plug	Truck
					104.00		
Total Cost:					832.00		

Description	Quantity/Hours	UM	Unit Cost	Total Cost
S Pegasus Utility Locating	6.40	HR	130.0000	832.00

01 Mobilization / Demobilization		1.00	LS	9,600.0000	9,600.00		
Prod. per Hr	Day Lgth	Hrs Req	Lbr Typ	Standard	Man. Hrs		
	8.00						
Work Comp 6306	7.50%	Days Req:			Prod./Man Hr: 0.000000		
Unit Cost	Material	Labor	Equipment	Other	Subcontractor	Plug	Truck
					9,600.00		
Total Cost:					9,600.00		

Description	Quantity/Hours	UM	Unit Cost	Total Cost
S Yellow Jacket Drilling	1.00	LS	9,600.0000	9,600.00



Handwritten mark

Ken McDonald GC - Exploration Drilling For Wells 2 & 3

Bid-Item	Description	Quantity	UM	Unit Cost	Total Cost
02	Drill And Abandon Exploration Bore 2 Work Comp - 6306 7.50%	1.00	LS	11,880.0000	11,880.00

02		Drill And Abandon Exploration Bore 2		1.00	LS	11,880.0000	11,880.00
Prod. per Hr.	Day Lgth: 8.00	Hrs Req.	Lbr Typ: Standard	Man. Hrs.			
Work Comp. 6306	7.50%	Days Req.	Prod./Man Hr.	0.000000			
Unit Cost	Material:	Labor:	Equipment:	Other:	Subcontractor:	Plug:	Truck:
Total Cost:				11,880.00			
			11,880.00				

Description	Quantity/Hours	UM	Unit Cost	Total Cost
S Yellow Jacket Drilling	1.00	LS	11,880.0000	11,880.00

03		Drill And Abandon Exploration Bore 3		1.00	LS	11,880.0000	11,880.00
Prod. per Hr.	Day Lgth: 8.00	Hrs Req.	Lbr Typ: Standard	Man. Hrs.			
Work Comp. 6306	7.50%	Days Req.	Prod./Man Hr.	0.000000			
Unit Cost	Material:	Labor:	Equipment:	Other:	Subcontractor:	Plug:	Truck:
Total Cost:				11,880.00			
			11,880.00				

Description	Quantity/Hours	UM	Unit Cost	Total Cost
S Yellow Jacket Drilling	1.00	LS	11,880.0000	11,880.00

04		Site Supervision		1.00	LS	5,572.0000	5,572.00
Unit Cost	Material:	Labor:	Equipment:	Other:	Subcontractor:	Plug:	Truck:
Total Cost:				4,716.80		855.20	
			4,716.80		855.20		

04A		Site Supervision		1.00	LS	5,572.0000	5,572.00
Prod. per Hr. 0.01	Day Lgth: 8.00	Hrs Req: 80.00	Lbr Typ: Standard	Man. Hrs. 80.00			
Work Comp. 6306	7.50%	Days Req: 10.00	Prod./Man Hr.	0.012500			
Unit Cost	Material:	Labor:	Equipment:	Other:	Subcontractor:	Plug:	Truck:
Total Cost:				4,716.80		855.20	
			4,716.80		855.20		

Description	Quantity/Hours	UM	Unit Cost	Total Cost
L Team Leader - General	1.00 / 80.00	HR	58.9600	4,716.80
E 1/2 Ton Pickup	1.00 / 80.00	HR	10.6900	855.20

Handwritten initials





CIVIL CONSTRUCTORS
FABRICATORS
CONSTRUCTION MANAGERS

INVITATION TO BID

NAME Richard LeBlanc
COMPANY Yellow Jacket Drilling Services
ADDRESS 3445 E. Illini Street
CITY, STATE ZIP Phoenix, AZ 85040

Sent Via Email

richard@yjdrilling.com

Quest Civil Constructors, Inc. (Contractor) is seeking Subcontractor bids for the following project:
CITY OF TEMPE
KEN MCDONALD GOLF COURSE - EXPLORATION DRILLING FOR RECHARGE WELLS 2 & 3

PROJECT OVERVIEW

The City Of Tempe is proposing to drill two 10 inch diameter exploration bores to an approximate depth of 180 feet each. The purpose of the exploration bores is to verify that soil conditions are suitable to install recharge wells in the specified areas.

SCOPE OF WORK

The SUBCONTRACTOR, as an independent contractor, shall furnish all supervision, labor, skill, materials, consumables, incidentals and equipment necessary or required to install two 10 inch diameter exploration bores, each to an approximate depth of 180 feet, including but not limited to:

- Perform all Blue Staking and utility locating under applicable Arizona state Blue Stake laws.
- Pothole bore holes to a depth of 10 feet prior to beginning any drilling operations.
- Obtain all required permits.
- Temporarily fence in drill sites with privacy fence to protect from golf ball strikes and entry by the public. Subcontractor will be responsible for site and public safety during working and non-working hours.
- Contain and dispose of any and all soil generated from the drilling operation at an offsite location.
- Contain and dispose of all water generated from the drilling process. Assume that water will be disposed of at locations no more than 300 feet away using temporary piping of appropriate type and diameter for the amount of water generated.
- Generate drilling logs and daily reports for submittal to the OWNER.
- Accurately layout drill cuttings on plastic sheeting at 10 foot intervals for inspection by City Hydrologist.
- Perform abandonment of exploration bores per ADEQ requirements using a full depth bentonite grout seal (plug).
- Include all mobilizations and demobilizations.
- Perform complete site cleanup and restore site to pre-existing conditions.
- Protect existing structures and utilities.
- Provide construction water and other site facilities.



CIVIL CONSTRUCTORS
FABRICATORS
CONSTRUCTION MANAGERS

The CONTRACTOR Shall:

- Coordinate with OWNER and golf course for access to site.
- Provide bore locations.

Schedule:

- Start of construction is estimated on or about September 6, 2010 and shall be fully completed by October 1, 2010. Subcontractor must acknowledge ability to meet the schedule requirements.

Payment Terms:

- Subcontractor shall be paid for drilling and abandonment of bores on a per foot basis at the unit cost quoted in the table below. All quantities listed in the table below are approximate. Subcontractor shall be paid based on actual field quantities.

PLEASE PROVIDE PRICING AS INDICATED BELOW:

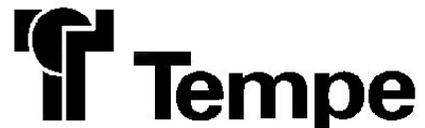
Description	Qty	Unit	Unit Cost	Total
Mobilization	1	LS	\$6,650.00	\$6,650.00
Drilling of Exploration Bore #2	180	LF	\$52.00	\$9,360.00
Abandonment of Exploration Bore #2	180	LF	\$14.00	\$2,520.00
Drilling of Exploration Bore #3	180	LF	\$52.00	\$9,360.00
Abandonment of Exploration Bore #3	180	LF	\$14.00	\$2,520.00
Demobilization	1	LS	\$2,950.00	\$2,950.00
TOTAL				\$33,360.00

Subcontractor Proposal shall be completed and returned via facsimile (623.581.9710) or email (cjb@qvs.com), ATTN: Cary Broschat, by no later than **THURSDAY, JULY 15, 2010 @ 5:00 p.m. Local Time.**

*A copy of Quest's standard subcontract agreement and insurance requirements are available upon request.

Thank you in advance for your prompt attention and assistance. Please direct any questions or requests for additional information to Cary Broschat at 623.581.9700 or cjb@qvs.com.

Staff Summary Report



Council Meeting Date: 9/2/2010

Agenda Item Number: _____

SUBJECT: Request approval to utilize a one-year State of Arizona contract with Dell for the purchase of desktop productivity, Microsoft Office, and server operating system software for the Information Technology Division.

DOCUMENT NAME: 20100902fsts05 PURCHASES (1004-01)

COMMENTS: (AD050028-A3-010) Total value of this contract will not exceed \$250,000 during the one-year term.

PREPARED BY: Ted Stallings, CPPB, Procurement Officer, 480-350-8617

REVIEWED BY: Michael Greene, CPM, Central Services Administrator, 480-350-8516
Jerry Hart, CPA, Deputy Director - Financial Services, 480-350-8505
Dave Heck, Deputy Information Technology Manager, 480-350-8777

LEGAL REVIEW BY: Dave Park, Assistant City Attorney, 480-350-8907

DEPARTMENT REVIEW BY: Ken Jones, Finance and Technology Director, 480-350-8504

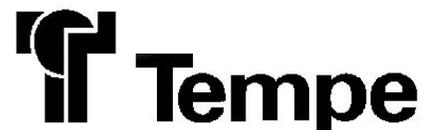
FISCAL NOTE: Sufficient funds have been appropriated in various City-wide operating and capital improvement cost centers for the anticipated expenditures in the current fiscal year.

RECOMMENDATION: Approve the utilization of the contract.

ADDITIONAL INFO: Background Information

The State of Arizona solicited and awarded a contract to Dell for the purchase of software at competitive pricing. The contract contains cooperative language allowing its use by other governmental agencies. This contract will be used for the purchase of software for systems enhancements and maintenance for computers and servers. Dell has consistently provided a high level of service to the City. Staff recommends approval to utilize the contract.

Staff Summary Report



Council Meeting Date: 9/2/2010

Agenda Item Number: 5B4

SUBJECT: Request approval to utilize a one-year State of Arizona contract with Ikon Office Solutions for the lease, installation and maintenance of multifunctional digital copiers/printers throughout the City on an as-needed basis.

DOCUMENT NAME: 20100902fsts04 PURCHASES (1004-01)

COMMENTS: (EPS060122-3) Total value of this contract will not exceed \$460,000 during the one-year term.

PREPARED BY: Ted Stallings, CPPB, Procurement Officer, 480-350-8617

REVIEWED BY: Michael Greene, CPM, Central Services Administrator, 480-350-8516
Jerry Hart, CPA, Deputy Director - Financial Services, 480-350-8505

LEGAL REVIEW BY: Dave Park, Assistant City Attorney, 480-350-8907

DEPARTMENT REVIEW BY: Ken Jones, Finance and Technology Director, 480-350-8504

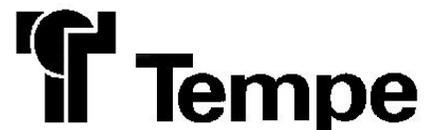
FISCAL NOTE: Sufficient funds have been appropriated in various City-wide cost centers for the anticipated expenditures in the current fiscal year for the payment for new and existing leases.

RECOMMENDATION: Approve the utilization of the contract.

ADDITIONAL INFO: Background Information

The State of Arizona solicited and awarded a contract to Ikon Office Solutions for the supply, installation, and maintenance of new networked multifunctional digital copiers/printers at competitive pricing. The contract contains cooperative language allowing its use by other governmental agencies. The multifunctional digital copiers/printer can also be used as scanners and fax machines thus reducing the need to purchase and maintain additional office equipment. Ikon Office Solutions has consistently provided a high level of service to the City. Staff recommends approval to utilize the contract.

Staff Summary Report



Council Meeting Date: 9/2/2010

Agenda Item Number: _____

SUBJECT: Request approval of a lease agreement between the City of Tempe and Maricopa County for the purpose of continuing the partnership for Head Start and Early Head Start services that are provided by the County's Human Services Department through its Head Start Zero-Five Program.

DOCUMENT NAME: 20100902cssw01 COMMUNITY SERVICES ADMIN (0701-01)

COMMENTS: The previous agreement (C2001-88) with the Head Start program at the Westside Multigenerational Center is terming out. This agreement will continue the partnership between The City of Tempe and the Head Start developmental preschool program.

PREPARED BY: Shawn Wagner, Recreation Services Administrator (480-350-5299)

REVIEWED BY: Travis Dray, Community Services Deputy Director (480-350-5182)

LEGAL REVIEW BY: Dave Park, Assistant City Attorney (480-350-8907)

DEPARTMENT REVIEW BY: Kathy Berzins, Community Services Director (480-350-5464)

FISCAL NOTE: Head Start will pay the sum of \$1 per year

RECOMMENDATION: Staff recommends approval of the Lease Agreement.

ADDITIONAL INFO: The Lease shall be in effect for ten (10) years, and provides four (4) renewal opportunities of ten (10) year terms; providing that neither party exercises their option for termination. The City will provide Head Start and Early Head Start with classroom and relate space in consideration of the payment of \$1 per year and Head Start's operation of a comprehensive developmental preschool for children. The Head Start program will operate at least four (4) days per week, and the Early Head Start program will operate five (5) days per week. Each of the preschool programs will operate at least ten (10) months each fiscal year.

LEASE AGREEMENT

This Lease Agreement is entered into this 1 day of July, 2010, by and between the City of Tempe, an Arizona municipal corporation (“Tempe” or “Lessor”), and Maricopa County, a political subdivision of the state of Arizona (“County” or “Lessee”).

A. Tempe owns the Westside Multigenerational Center (“Center”) located at 715 W. 5th Street, Tempe, Arizona (the “Center”).

B. The Center is operated by the City of Tempe Community Services Department

C. Tempe and County desire to continue their partnership for Head Start and Early Head Start services that are provided by the County’s Human Services Department through its Head Start Zero-Five Program.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and other valuable consideration, Tempe and County agree as follows:

1. **Leased Premises.** Tempe hereby leases to County the portions of the Center identified on Exhibit A attached hereto, generally consisting of three classrooms with adjoining children’s restrooms and playground. County shall have exclusive rights to the classrooms at all times. County shall have the exclusive rights to the playground Monday – Friday from 7:30 AM – 5:00 PM. County also shall have the nonexclusive right to use public areas within the Center (such as sidewalks, driveways, parking lots, restrooms, hallways, and reception areas) for ingress, egress, deliveries and related purposes.

2. **Term; Termination.** The term of this Lease shall be ten (10) years (“Term”).

2.1 **Options to Renew.** If neither Tempe nor County exercises its right to terminate this lease, Lessor hereby grants to Lessee the option of renewing the Lease for four (4) additional ten (10) year terms (individually the “Renewal Term”). To exercise a Renewal Term, Lessee shall give Lessor written notice of its intent to renew at least one hundred eighty (180) days prior to the expiration date. The Rent during any Renewal Term shall be as defined in Section 3 of this Agreement unless the parties otherwise agree in writing. During any Renewal Term, the terms, provisions and conditions contained within this Lease shall remain in full force and effect.

2.2 Tempe and County may terminate this Lease by giving not less than ninety (90) days prior written notice of termination to the other party.

2.3 This Agreement is subject to termination pursuant to A.R.S. §38-511.

3. **Consideration for Lease.**

a. For the Term or any Renewal Term, County shall pay to Tempe as rent for the leased premises the sum of One Dollar (\$1.00) per year ("Rent"). The first payment shall be payable in advance on the first day of the term of this lease, and subsequent payments shall be payable in advance on the same day of each subsequent year during the term of this lease. The Rent shall be paid without notice, demand, deduction or any set-off whatsoever, to the City of Tempe, Westside Multigenerational Center, 715 W. 5th Street, Tempe, Arizona 85281, or to any other place designated by the City in writing.

b. County will assist Tempe in providing information and encouraging eligible children and families to become involved with the Center's programs and resources.

4. **Use; Programming.**

a. County shall use the leased premises only for the purpose of providing a comprehensive developmental preschool for children ages 0-5. Head Start classrooms will be open at least four (4) days per week from 8:00 a.m. to 4:30 p.m. and Early Head Start classroom will be open five (5) days per week from 7:30 a.m. to 2:30 p.m. (the "Preschool"). The Preschool shall operate for at least ten (10) months of each fiscal year. County may (but is not required to) provide summer programming if funding is available for such purpose.

b. The Preschool is expected to serve a minimum of 48 but not more than 80 eligible children, depending on community needs and available resources.

c. County shall staff the Preschool with at least two (2) full time equivalent teachers, each of whom shall have at least a Child Development Accreditation (CDA). One classroom aide may be provided in Head Start classrooms depending on community needs and available resources. All educational staff and all programming must meet the combined requirements, policies and procedures mandated by the Maricopa County Human Services Department for Head Start and Early Head Start, federal Head Start Performance Standards, and Arizona State Child Day Care Licensing regulations.

d. County shall provide all appropriate classroom materials and supplies required for its use of the leased premises and operation of the Preschool.

e. County shall provide classroom furniture and equipment required for its use of the leased premises; all of such furniture and equipment shall be and remain the property of County, including all replacements and substitutions, and may be removed by County upon termination or expiration of this Lease.

f. County shall provide food for classroom meal services, including breakfast, lunch and snack, in accordance with the United States Department of Agriculture/Child Adult Food Care Program guidelines and those of Head Start Performance Standards.

g. County will conduct monthly parent meetings and other family activities

throughout the year, and may use other space at the Center in accordance with the rules for shared use referenced elsewhere in this Lease.

h. County shall obtain and maintain in effect all licenses and permits, and shall pay all fees, required to lawfully operate the Preschool and occupy the leased premises, excluding any permits and fees associated with the entire Center, such as gas inspections or occupancy permits, which are the responsibility of Tempe at Tempe's sole expense. Tempe agrees to provide a copy to County of any Center permits or inspections that are required by Arizona Child Care Licensing Regulations.

i. County shall take all actions necessary to comply with applicable auditing, administration and compliance requirements applicable to the Preschool.

i. The leased premises shall not be used for any purposes in violation of any zoning or other laws or of any regulation of any governmental body having jurisdiction over the leased premises.

5. **Scheduling of Shared Use Areas.** County shall have the nonexclusive right to use any areas designated by Tempe as "Shared Areas" for meetings and other reasonable uses in accordance with reasonable rules and regulations adopted by the City of Tempe Community Services Director or their designee.

6. **Utilities.** Tempe shall provide all utilities for the Center and the leased premises (excluding long distance telephone service and other special charges), including electric, gas, water, sewer, telephone, janitorial, and trash collection. County shall reimburse Tempe within thirty (30) days after receipt of an invoice from Tempe for long distance telephone charges or other special charges incurred by County.

7. **Maintenance.** Tempe shall maintain the Center in good condition and repair, and will provide general maintenance of the Center. Tempe's maintenance responsibilities shall extend to all interior and exterior portions of the Center and all building systems, including heating, air conditioning, fire suppression, water, sewer, playground, landscaping, replacements or improvements. In appropriate circumstances, however, County may be required to reimburse Tempe for certain costs for repairs incurred because of abuse or extraordinary wear and tear caused by County, its guests, invitees, employees or volunteers. County shall take substantial responsibility for general upkeep of the leased premises required by the nature of its operations to include immediate notification to the City of the need for repairs to the facility or replacement of equipment.

8. **Alterations.** The Center has been constructed in accordance with applicable laws, including without limitation the Americans With Disabilities Act. Without Tempe's prior written consent, County shall not make any alterations, additions or improvements or remodel, redecorate or paint the leased premises or any part thereof. Without Tempe's prior written consent, County shall not erect any signs on the exterior of the Center. Tempe shall have the absolute right to grant or withhold its consent; provided that Tempe agrees not to unreasonably withhold its consent to any alterations or other improvements to the leased premises that are

required to ensure that the leased premises comply with applicable guidelines for early childhood quality practices. Any such alterations and improvements shall be made by and under the direction of Tempe, and in accordance with Tempe's procurement policies, but at County's sole cost and expense. County and Tempe acknowledge that County's ability to pay for any alterations or improvements is subject to the availability of funding, and that Tempe may condition its approval on receipt of reasonably satisfactory evidence that funding is available. Any alterations or improvements constructed at the leased premises shall become part of the Center and constitute the property of Tempe. If, at any time during the term of this Agreement, any repairs to or additions, changes or corrections in the Center are required by reason of any laws, ordinances, rules or regulations now or hereafter in force, Tempe shall make such repairs, additions, changes or corrections at its sole cost and expense. All such alterations and improvements and any fixtures installed by County on the leased premises shall become the sole property of Tempe upon expiration or termination of this Lease.

9. **Damage; Destruction.** If the Center, the leased premises, or any material part thereof, are damaged or destroyed by fire or other casualty from any cause, so as to render the leased premises or the Center unfit for use and occupancy, Tempe will proceed, as expeditiously as may be practicable, to repair the damage, unless Tempe decides not to repair or restore the Center, in which event and at Tempe's sole option, Tempe may terminate this Agreement by giving County ninety (90) days written notice. County agrees that all proceeds from insurance policies maintained with respect to the leased premises shall be paid to Tempe. County shall be responsible for insuring its property and for repairing and replacing any of its property that may be damaged or destroyed.

10. **Default; Remedies.** It shall be a default if either party fails to perform any of the terms, covenants, or conditions of this Lease required to be performed by it, for a period of thirty (30) days after written notice from the other party specifying in reasonable detail the nature of such failure. If the default is of a nature that it cannot reasonably be cured within thirty (30) days, then the defaulting party shall have such longer period as may be necessary provided the defaulting party has commenced the cure within such thirty (30) days and diligently pursues such cure to completion. Upon the occurrence of a default, the non-defaulting party shall have the right, at its option, to immediately terminate this Agreement, whereupon it shall have no further obligation or liability under this Agreement.

11. **Compliance with Laws.** Each party agrees to conduct itself and its activities in compliance with all applicable laws, rules and regulations of the United States, the State of Arizona, the County of Maricopa and the City of Tempe.

12. **Taxes.** Tempe shall be responsible for payment of any real property taxes, assessments and similar impositions levied against the Center, and all fixtures and equipment

13. **Insurance.** Tempe understands and acknowledges that County is self-insured.

14. **Indemnity.** Tempe and County (as "indemnitor") agrees to indemnify, defend and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred

to as “claims”) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee are caused *by the act, omission, negligence, misconduct or other fault* of the indemnitor, its officers, officials, agents employees, or volunteers.

15. **Notices.** All notices which shall or may be given pursuant to this Agreement shall be in writing and transmitted by registered or certified mail, return receipt requested, addressed as follows and shall be effective when received:

County: Maricopa County Department of Human Services
Head Start Zero-Five Program
234 N. Central Avenue, Suite 3201
Phoenix, AZ 85004

With Copies to: Maricopa Department of Finance
Real Estate Services Manager
301 W. Jefferson, Suite 960
Phoenix, AZ 85003

Tempe: City of Tempe
Westside Multigenerational Center
715 W. 5th Street
Tempe, AZ 85281

With copies to: Community Services Director
3500 S. Rural Road
Tempe, AZ 85282

16. **Force Majeure.** Except for payment of sums due, no party shall be liable to the other nor deemed in default under this Lease if and to the extent that such party’s performance of this Lease is prevented by reason of force majeure.

17. **Cancellation.** This Lease is subject to cancellation in accordance with the provisions of A.R.S. §38-511 and may be canceled by County pursuant thereto without any penalty or liability to County. This Lease may be terminated by County at the end of any fiscal year due to non-appropriation of funds without any penalty or liability to Lessee. County’s fiscal year ends June 30th. Tempe and/or any of its employees, agents, officers, directors, members, successors or assigns hereby waives any and all rights to bring any claim against County or its employees, agents, officers, directors, members, successors or assigns from or relating in any way to County’s termination of this Agreement.

18. **Liens.** County shall not permit any liens to be placed against the Center or the leased premises; if the Center or the leased premises shall at any time during the term of this Lease become subject to any vendor's, mechanic's, laborer's, or materialmen's lien based upon the furnishing of material or labor to County, then at its sole cost and expense, County shall cause the same to be discharged within forty-five (45) days after notice thereof, unless the lien and the claim

occasioning is the subject of pending litigation being pursued by County in good faith.

19. **Nuisance.** Notwithstanding anything in this Lease to the contrary, including without limitation the use by County of the Leased Premises, County shall not commit or permit any nuisance or other act, whether noise, odor, smoke, sewage, chemical wastes, or otherwise, which may disturb the quiet enjoyment of any other user of the Center. County shall not obstruct or cause to be obstructed any public or private roadways.

20. **Assignment; Subletting; Sale.** County shall not assign this Lease or sublet all or any portion of the leased premises without the prior written consent of Tempe, which consent may be granted or withheld in Tempe's sole and absolute discretion. Prior to agreeing to any assignment, the City is entitled to review all financial consideration received for the assignment. Consent to the Assignment can be withheld by the City for any reason. Tempe shall notify County within thirty (30) days after any sale, transfer or conveyance of the Center.

21. **Right of Entry.** Tempe may, during the term of this Lease, at all reasonable times and during usual business hours, enter upon the Leased Premises for the purpose of inspecting the same, for reasonable access for maintenance, repair or alterations.

22. **Surrender.** Upon the expiration of the term of this Lease, or upon the earlier termination of this Lease, County shall surrender peaceable possession of the leased premises in the same condition as the leased premises were at the commencement of this Lease, reasonable wear and tear and acts of God excepted.

23. **Entire Agreement.** This Lease contains the entire agreement between the parties hereto, and supersedes any prior oral or written agreement or understanding with respect to the subject matter hereof.

24. **Applicable Law.** The laws of Arizona shall govern the construction, performance, and enforcement of this Lease.

25. **Time of Essence.** Time shall be of the essence in the performance of every term, covenant, and condition of this Lease.

27. **Amendment; Waivers.** No amendment, modification, or alteration of this Lease and no waiver of its terms, shall be binding unless in writing, dated subsequent to the date of this Lease and duly executed by Tempe and County. No waiver by either party of any breach of any of the terms, covenants or conditions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

28. **No Partnership or Joint Venture.** While Tempe and County shall cooperate with one another to assure the proper operation of the Preschool, nothing in this Lease or otherwise in the relationship of the parties shall render them partners or joint venturers.

29. **Asbestos Compliance.** Tempe shall comply with all local, county, state and federal laws with regard to asbestos-containing materials (ACM) and presumed asbestos-containing materials (PACM), including the Occupational Safety and Health Agency's (OSHA) General Industry (1910.100), the OSHA Construction (1926. 1101), and the Environmental Protection Agency's (EPA) National Emissions Standard for hazardous Air Pollutants 40 DFR Part 61 Subpart M. Particular attention to the notification provisions of the OSHA 1926.1101 (k(1-5)) are to be adhered.

Prior to occupancy, County requires completion of either a certified asbestos survey of building materials located in all sections leased to the County or completion of either a certified asbestos survey of building materials located in all sections leased to County or completion and adherence to an operations and maintenance (O&M) program that assumes all non-sampled building materials to be positive for asbestos and identifies a standard operating procedure (SOP) for training, notification, maintenance, bulk sampling, disturbance and emergency procedures with regard to all suspect building materials.

County reserves the right to conduct certified asbestos building surveys within the leased spaces of the facility. All building surveys will be provided to and / or accessible to Tempe, outside contractors, in-house maintenance, multi-employer worksite contractors and other commercial tenants.

30. **Recording.** County shall record this Lease Agreement as per Exhibit B at the Maricopa County Recorders' Office.

31. **Attorneys' Fees and Costs.** In the event Tempe or County resort to legal proceedings to enforce any right under this Lease or to obtain relief for any default by the other party, the party prevailing in such proceedings shall be entitled to recover from the defaulting party the costs thereof, including reasonable attorneys' fees and costs.

32. **Quiet Enjoyment.** Tempe covenants that County, upon paying all rent as provided herein and upon complying with all of its other obligations hereunder, shall lawfully and quietly hold, occupy and enjoy the Premises during the Term or any Renewal Term without hindrance or molestation by Tempe or by anyone lawfully claiming by, through or under Tempe, subject, however, to the terms and conditions of this Lease.

33. **Adoption by Mayor and Council; Authority to Execute Minor Amendments.** This Lease is subject to adoption by Tempe's Mayor and Council through an ordinance. Upon execution of this Lease, the Mayor and Council authorize the Community Services Director of Tempe to sign other documents or minor amendments of this Lease as may be necessary to effectuate this Lease.

34. **Partial Invalidity.** If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

35. **Headings.** Sections and other headings contained in this Lease are for reference purposes only and shall not affect in any way the meaning or interpretation of this Lease.

36. **Cooperation.** Lessor and Lessee agree to execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by Lessor and/or Lessee pursuant to this Lease.

37. **Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Faxed and copied signatures are acceptable as original signatures.

38. **Not Binding Until Signed.** Submission of this instrument for examination shall not bind Lessor in any manner, and no lease or obligation on Lessor shall arise until this Lease is executed and delivered by both Lessor and Lessee.

39. **Delegation of Authority.** Since this Lease will require administrative action, including execution of documents, from time to time to carry out the spirit and intent of the Lease, both the Chief Financial Officer for Maricopa County and the Real Estate Manager for Maricopa County are hereby given the authority and charged with the responsibility for proper administration of this Lease, whether or not specific authority is granted in any provision of this Lease.

40. **Notice of Sale.** If the Premises is sold during the term of the Agreement, Lessor shall be required to notify Lessee in writing, via certified mail, within thirty (30) days of the transfer date.

IN WITNESS WHEREOF, the parties hereto have executed this Lease this ____ day of _____, 2010.

CITY OF TEMPE

MARICOPA COUNTY BOARD OF SUPERVISORS

By: _____
Hugh Hallman
Mayor
ATTEST:

By: _____
Don Stapley
Chairman Board of Supervisors

Brigitta Kuiper
City Clerk

Fran McCarroll
Clerk, Board of Supervisors

APPROVED AS TO FORM:

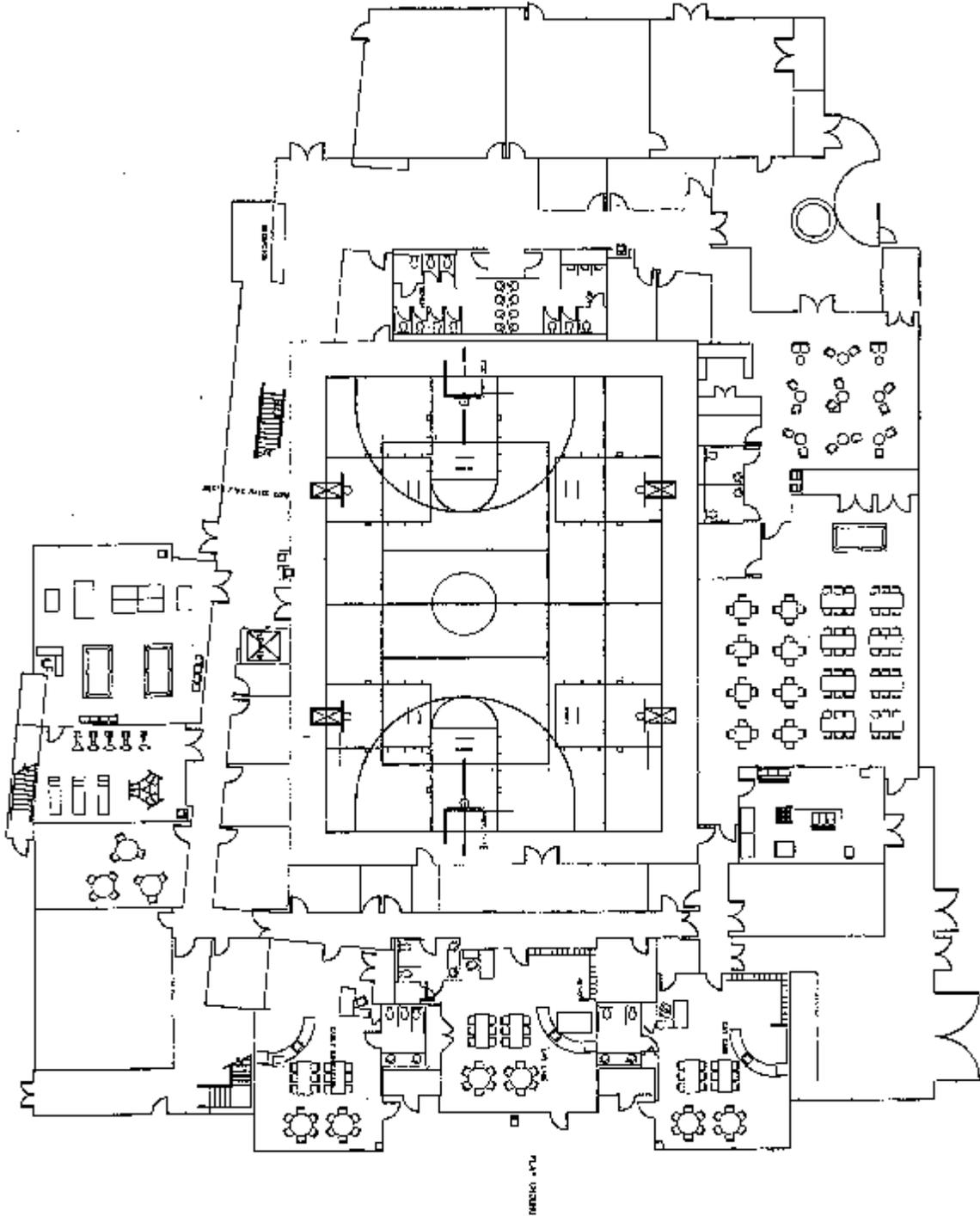
This Contract has been reviewed pursuant to Section 11-251 and 11-951, et. seq., Arizona Revised Statutes, by the undersigned Attorney who has determined that it is proper in form and is within the power and authority granted under the laws of the State of Arizona.

City Attorney

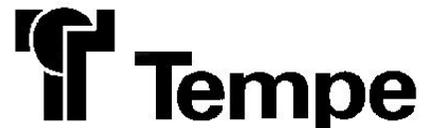
Attorney

Date

**EXHIBIT A
PREMISES**



Staff Summary Report



Council Meeting Date: 9/2/2010 Agenda Item Number: _____

SUBJECT: Request approval of a one-year contract renewal with Stanley Convergent Security Solutions for security system purchase, installation and maintenance for the Public Works Department.

DOCUMENT NAME: 20100902fsta02 PURCHASES (1004-01)

COMMENTS: (T08-186-01) Total cost of this contract will not exceed \$150,000 during the one-year contract renewal beginning August 18, 2010.

PREPARED BY: Tony Allen, CPPB, Procurement Officer, 480-350-8548

REVIEWED BY: Jerry Hart, CPA, Deputy Director – Financial Services, 480-350-8505
Michael Greene, CPM, Central Services Administrator, 480-350-8516
Don Bessler, Public Works Manager, 480-350-8205
John Osgood, Acting Public Works Deputy Director – Operations, 480-350-8949
Jennifer Adams, Acting Facility Maintenance Manager, 480-350-8835

LEGAL REVIEW BY: Dave Park, Assistant City Attorney, 480-350-8907

DEPARTMENT REVIEW BY: Ken Jones, Finance and Technology Director, 480-350-8504

FISCAL NOTE: Sufficient funds have been appropriated in various Citywide cost centers for the anticipated expenditures in the current fiscal year.

RECOMMENDATION: Approve the renewal of the contract.

ADDITIONAL INFO: Background Information

The City of Tempe issued a Request for Proposal (RFP) to establish a term contract for the purchase, installation and maintenance of security system equipment throughout the City. The contract was issued for an initial two-year term with three one-year renewal options. This renewal request is for the first of three available renewal options.

Contractor Performance

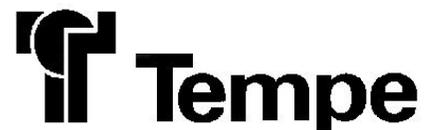
Stanley Convergent Security Solutions performance was rated by the Public Works Department on the following criteria:

- Personnel are responsive, cooperative and available
- Overall quality of products or services delivered
- Timeliness of performance
- Quality of follow-up in resolving complaints or problems
- Firm's promptness in submitting accurate invoices

In all categories, Stanley received scores indicating their meeting standards as established by the contract. It is the recommendation of the Public Works Department that the contract be renewed.

There is no cost increase associated with this renewal.

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: Request approval of Tempe Experience Corps Affiliate Agreement between Experience Corps and the City of Tempe, to provide the Tempe Experience Corps program from September 1, 2010 to August 31, 2011

DOCUMENT NAME: 20100902cskb02 COMMUNITY SERVICES ADMIN (0701-01)

COMMENTS: The Affiliate Agreement with Experience Corps, a non-profit organization, allows the City of Tempe to provide services in early literacy tutoring programs in Tempe elementary schools. All costs are covered through grant funds.

PREPARED BY: Peggy Goldberg, Sr. Social Services Coordinator, 480-858-2465

REVIEWED BY: Kathy Berzins, Community Services Director, 480-350-5464

LEGAL REVIEW BY: Judi Morgan, Deputy City Attorney, 480-350-8779

DEPARTMENT REVIEW BY: Kathy Berzins, Community Services Director, 480-350-5464

FISCAL NOTE: There is no fiscal impact. There are significant funds provided by various grant awards totaling approximately \$130,000.00

RECOMMENDATION: Staff recommends approval of the Affiliate Agreement.

ADDITIONAL INFO: This Affiliate Agreement with Experience Corps will continue to provide the Experience Corps early literacy tutoring program at selected elementary schools located in Tempe. Hundreds of children have benefitted from the early literacy tutoring provided by community volunteers for the past four years under this program.



EXPERIENCE CORPS AFFILIATE AGREEMENT

DEFINITIONS

The terms used in this Agreement will have the following meanings:

1. **Experience in Action:** the legal name of the District of Columbia nonprofit corporation that is doing business as Experience Corps®.
2. **Experience Corps:** the trade name of Experience in Action, representing the legal entity coordinating all activities associated with the Experience Corps Program and the Experience Corps Brand.
3. **Experience Corps National Office:** the Experience Corps headquarters in Washington, DC, currently located at 2120 L Street NW.
4. **Experience Corps Network:** the collective individuals and agencies affiliated with Experience Corps through formal Agreements to deliver the Experience Corps Program.
5. **Experience Corps Program (also called “Licensed Services”):** the collective activities conducted by the Network that is within the framework of appropriate activities that are established by Experience Corps the Organization.
6. **Experience Corps Affiliates.** Agencies independent of the Experience Corps organization that host and coordinate Experience Corps activities within their communities.
7. **Experience Corps Projects:** the Experience Corps activities conducted by affiliates within a distinct geographic region, e.g., the Experience Corps project in Cleveland.
8. **Experience Corps Brand:** the sum of the Program, the Network, the National Office, and the Trademarks, which together shape the perceptions that audiences have of Experience Corps.
9. **Experience Corps Members:** those persons ages 55+ who serve their communities through the Experience Corps Program.

INTRODUCTION

Experience in Action d/b/a Experience Corps (“Experience Corps”) organizes and oversees the Experience Corps Program nationwide, in order to achieve its vision:

Older adults in service to children are an integral part of the education strategy across America. Through this intergenerational exchange, children succeed, older adults thrive and communities are made stronger;

and its mission:

To create powerful opportunities for older adults to meet society's greatest challenges.

From time to time Experience Corps enters into agreements with local nonprofit organizations to run Experience Corps Projects in their communities.

This Affiliate Agreement (the “Agreement”) is made and entered into as of September 1, 2010 (the “Effective Date”), by and between Experience Corps, a nonprofit District of Columbia corporation located at 2120 L Street NW, Suite 600, Washington, DC 20037, and City of Tempe (the “Affiliate”), a nonprofit corporation located at 31 E 5th Street, Tempe AZ 85281, for the purpose of clarifying the roles and responsibilities of each of the parties in furtherance of the mission and vision of Experience Corps.

Experience Corps sets the framework for establishing and running the Program. The framework starts with a stated mission, vision and goals. Further elaboration comes from the prescribed use of the Experience Corps Brand as well as the statement of “core” service standards and objectives for positive impact on members, students and schools. The framework also includes setting the scope of annual program growth, with mutually agreed goals for the number of schools, students and members.

Experience Corps and its Affiliates recognize and will periodically review together the basic core competencies and capacity needed to deliver high quality services that support the Experience Corps vision, including the maximum feasible growth by engaging more older adults to serve more children and schools in need.

Experience Corps gives focus to the Experience Corps Program by serving as a resource center and technical assistance provider for Affiliates starting up or running ongoing Experience Corps Projects. In addition, Experience Corps sets minimum standards for all Experience Corps Projects in regards to size/scope, program quality, and expected performance outcomes. Although Experience Corps may provide technical assistance, each Affiliate is solely responsible for the organization, operation, publicity, fundraising, legal affairs and all other aspects of its local Experience Corps Project, including selection, training and supervision of Experience Corps Members and carrying out project activities in a proper manner.

TERMS

1. Use of the Experience Corps Name and Other Experience Corps Trademarks

a. Scope/Grant of License

Subject to the terms and conditions of this Agreement, Experience Corps grants to Affiliate and Affiliate accepts a non-exclusive, non-transferable, non-sublicenseable license to use the marks in Exhibit A (the “Licensed Marks”), solely in connection with administering the Experience Corps Program (the “Licensed Services”). The territory in which Affiliate may use the Licensed Marks is: Tempe, Arizona (the “Licensed Territory”).

Affiliate shall not use the Licensed Marks on or in connection with any products or activities other than the Licensed Services or outside the Licensed Territory without prior written approval of Experience Corps.

b. Form of Use

Affiliate shall use the Licensed Marks only in the form or forms set forth in Exhibit A and according to the Experience Corps Branding Standards Guide. Affiliate shall make available to Experience Corps, upon its request, for its approval, samples of uses of the Licensed Marks on promotional materials or other materials created for the Licensed Services. Experience Corps shall have the right to make reasonable objections on the grounds that it believes that the use of such materials by Affiliate will be damaging to, or dilutive of the value or reputation associated with, the Licensed Marks, or is inconsistent with Experience Corps’s national strategy for use of the Licensed Marks.

c. Quality Control

The nature and quality of services rendered by Affiliate in connection with each of the Licensed Marks must conform to the level of quality deemed appropriate by the Experience Corps National Office, and must conform to the standards set out in Exhibit B, as well as any reasonable additional specific standards set by Experience Corps from time to time.

The Experience Corps National Office shall have the right to make any reasonable number of site visits to monitor the quality of the Licensed Services provided by Affiliate, and Affiliate shall assist the Experience Corps National Office in monitoring quality by, among other things, providing Experience Corps National Office staff with access to Affiliate’s premises and other locations at reasonable hours to review the quality of the Licensed Services. Affiliate shall undertake such other steps as Experience Corps may reasonably request to assist Experience Corps in monitoring the quality of the Licensed Services.

d. Ownership of Marks

Affiliate acknowledges that it has no interest in, or claim to, the Licensed Marks other than the right to use them as granted under this Agreement and that Experience Corps

will remain the sole and exclusive owner of all right, title and interest in the Licensed Marks. Any and all goodwill of the Licensed Marks that may develop from Affiliate's use of such Licensed Marks hereby inures exclusively to Experience Corps. Affiliate shall not do anything to compromise Experience Corps's rights in the Licensed Marks, such as by filing trademark applications for the Licensed Marks, by asserting in any way Affiliates ownership of the Licensed Marks, or by diluting in any way the value of the Licensed Marks.

2. Services and Support to be Offered by Experience Corps National Office

In addition to the items listed in this section, Experience Corps shall provide the services and support described in Exhibit B. To the extent that any specific items in Exhibit B are left to future agreement of the parties, Experience Corps agrees to negotiate in good faith to reach such agreement in order to further the spirit and purposes of this Agreement. Further:

- a. Experience Corps shall make reasonable efforts to provide information, both proactively and on request that will enhance the Affiliate's capacity to meet Program goals. See Exhibit B for more detail.
- b. Experience Corps shall, where it deems appropriate, include Affiliate in Experience Corps's national and regional press and public relations efforts and shall develop and manage a website and project intranet to benefit the Program and the Experience Corps brand.
- c. Experience Corps shall consider Affiliate eligible to attend Experience Corps national conferences or training sessions provided or sponsored by Experience Corps.
- d. Experience Corps shall include Affiliate in Experience Corps's communications network, which provides opportunities for Affiliate and Project staff members to share information and engage in peer learning.

3. Affiliate's Obligations

In addition to the specific items below, Affiliate shall conduct the Project in accordance with the standards and specifications of Exhibit B. To the extent that any specific items in Exhibit B are left to future agreement of the parties, Affiliate agrees to negotiate in good faith to reach such agreement in order to further the spirit and purposes of this Agreement. Further:

- a. All Experience Corps Programs run by Affiliate will be either the one-on-one tutoring model and/or in-classroom assistance model for grades K to 3, as prescribed by Experience Corps and as further detailed in Exhibit B. Any deviation from these literacy intervention models must have prior written consent from Experience Corps.
- b. Affiliate shall follow the plan outlined in Exhibit C, which is designed to double the size of its Project over the next 5 years.
- c. When requested by Experience Corps, Affiliate shall send appropriate representative(s) to Experience Corps national conferences or training sessions.

- d. Affiliate shall name primary points of contact, as well as alternative points of contact for each critical function associated with the Experience Corps Project.
- e. Affiliate shall provide Experience Corps access to Affiliate's premises and other locations at reasonable hours to review the quality of the Licensed Services.
- f. Prior to the beginning of the school year, Affiliate shall complete and return to the Experience Corps National Office the Financial Management Survey set forth in Exhibit D.
- g. Affiliate is solely responsible for the organization, operation, publicity, fundraising, legal affairs and all other aspects of its local Project, including selection, training and supervision of members and carrying out Project activities in a proper manner. Affiliate shall notify the Experience Corps National Office if and when Affiliate is involved in any legal action or labor dispute which may in any way involve the Experience Corps Program and/or Brand.
- h. Affiliate shall work in cooperation with other Experience Corps Affiliates to improve the Experience Corps Network, Program, and Brand, particularly by means of sharing Project-related data, best practices, and lessons learned, as well as by other means as appropriate.
- i. Affiliate shall maintain financial management systems sufficient to provide all financial information reasonably necessary for prudent fiscal management of the organization; compliance with all contracts to which Affiliate is a party; and compliance with all reporting obligations under federal, state, and local tax laws and other applicable law. Affiliate shall, as reasonably necessary, consult with qualified accountants, bookkeepers, or other professionals for assistance in creating and maintaining such financial management systems.
- j. Affiliate shall, at Affiliate's expense: (i) if its operating revenues as related to its Experience Corp Project are from \$50,000 to \$199,999, subject its financial records to review by a local independent accountant; or (ii) if its operating revenues as related to its Experience Corp Project are over \$200,000, be audited by a local independent accountant on an annual basis.
- k. Affiliate shall name Experience In Action DBA Experience Corps, its directors, officers, employees and agents, including but not limited to volunteers, as additional insureds under the Affiliate's comprehensive general liability insurance policy. All policies of liability insurance so obtained and maintained, including any umbrella liability insurance policies, shall name Experience In Action DBA Experience Corps, its directors, officers, employees and agents, as additional insureds. Experience Corps acknowledges that the City is self-insured up to its self-retained limits. Experience Corps acknowledges and agrees that City's self-insurance coverage satisfies the insurance requirements outlined in this Section 3.k. herein. Affiliate has also purchased insurance for claims over its self-retained limits. The coverage provided by these methods insure general public liability and property damage. Affiliate agrees to provide Experience Corps a certificate of

insurance naming Experience Corps as an additional insured, upon request, as it relates to this Agreement.

1. Affiliate shall exercise reasonable care in screening and hiring Experience Corps Members, as outlined by Exhibit B, and will provide the Experience Corps National Office with a copy of the Affiliate's Member handbook to demonstrate compliance.

4. Affiliate's Representations - Affiliate represents and warrants to Experience Corps that:

- a. It is either a program of a 501(c)(3) nonprofit corporation, a stand-alone 501(c)(3) nonprofit corporation, a government unit or instrumentality, or other form of federally tax-exempt organization;
- b. It engages older adults in service to the community;
- c. It incorporates all of the Experience Corps Program elements set forth in Exhibit B;
- d. It is locally managed, administered, and funded;
- e. It does not discriminate on the basis of race, religion, ethnic or national origin, gender, disability, age or sexual orientation, or any other legally protected status, either in the people it serves or the volunteers who serve it;
- f. It is an ongoing and not a one-time project;
- g. It is self-insured up to its self-retained limits sufficient to provide the following coverage: (i) real and personal property coverage, (ii) comprehensive general liability coverage of no less than one million dollars (\$1,000,000) combined single limit per occurrence, and two million dollars (\$2,000,000) aggregate, and (iii) directors and officers liability coverage; and
- h. It will follow all requirements of the Experience Corps Program, (see Exhibit B.)

5. Nature of Relationship – Independent Contractor

The parties to this Agreement are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement. Neither party shall have the power to obligate or bind the other party.

6. Term/Termination

- a. This Agreement will be effective on the Effective Date and continue until August 31, 2011 or until terminated in accordance with the provisions of this Agreement.
- b. If either party should breach any material provision of this Agreement, the other party may terminate this Agreement if the breaching party fails to cure such breach within thirty (30) days after written notice of such breach.
- c. In the event of any termination or expiration of this Agreement, Affiliate shall discontinue immediately all use of the Licensed Marks.

7. Disclaimers

Each party acknowledges and agrees that all the Licensed Marks and any other information or materials licensed or provided hereunder are licensed or provided on an “as is” basis and that neither party makes any representations whatsoever, whether express, implied, or statutory, including without limitation any implied warranties of title, enforceability, or non-infringement.

8. Limit on Liability

- a. With respect to this Agreement, except as set forth in Section 9 (Indemnification), in no event shall Experience Corps or Affiliate be liable to each other or any third party for any direct, indirect, special, or consequential damages including on account of expenditures, investments, leases or commitments made in connection with the activities or goodwill of either party, lost revenue, lost data and the like arising out of or in connection with this Agreement even if the parties have been advised of the possibility of such damages.
- b. No official, employee, or representative of Affiliate shall be personally liable to any party, or to any successor in interest to any party, in the event of any breach or default by Affiliate or for any amount which may become due, or with respect to any obligation of Affiliate or otherwise under the terms of this Agreement or related to this Agreement.
- c. Affiliate, as a public entity supported by public funds, may not waive any lawful or legitimate right to recover monies lawfully due. Experience Corps acknowledges and agrees that it shall not demand any limitation on the part of Affiliate to limit or waive any right Affiliate may have in law or in equity, to recover damages in any applicable jurisdiction.

9. Indemnification

Affiliate shall indemnify, defend at Experience Corps’ request, and hold harmless Experience Corps, together with its directors, officers, employees, and agents, from and against any and all actions, claims, liabilities, losses, damages, expenses and costs (including without limitation reasonable attorney’s fees) for: (i) any false representations by Affiliate in Section 4; (ii) personal injury or damage to personal property based on Affiliate’s negligence, recklessness or willful misconduct; or (iii) infringement or misappropriation by Affiliate of any intellectual or intangible property of any third party.

10. Not Assignable by Affiliate

Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Affiliate, in whole or in part, whether voluntarily or by operation of law without the prior written consent of Experience Corps.

11. Entire Agreement

This Agreement together with Exhibits A, B, C, and D attached hereto contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter. In case of conflict between this

Agreement and any Exhibit, the terms of this Agreement shall govern. This Agreement may not be amended, except by a writing signed by both parties and dated subsequent to the date of this Agreement.

12. Governing Law

This Agreement will be interpreted and construed in accordance with the laws of the District of Columbia and the United States of America, without regard to conflict of law principles. All disputes arising out of this Agreement will be subject to the exclusive jurisdiction of the local and federal courts located in Washington, DC, and each party consents to the personal jurisdiction thereof.

13. Conflicts of Interest. No officer or employee of either party shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement, that is prohibited by law. This Agreement may be subject to termination under A.R.S. §38-511.

14. Funding. If during the term and any renewal terms of this Agreement, Affiliate fails to secure funding or achieve the funding necessary to continue its obligations under this Agreement, the Agreement will be terminated no later than June 30th of the last fiscal year for which funding was made available, with no resulting liability resulting to Affiliate. No termination or cancellation penalty or liability of any kind shall accrue to Affiliate as a result of such termination.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument and it shall not be necessary that any single counterpart bear the signature of all parties.

16. Survival. Any and all representations, obligations, indemnities, warranties, covenants, conditions and agreements contained in this Agreement which are expressed as surviving the expiration or earlier termination of this Agreement, or by their nature, are to be performed, observed or survive, in whole or in part, after the termination or expiration of the Term, shall survive the termination or expiration of this Agreement.

17. Severability. In the event any term, condition, covenant or provision herein is held to be invalid or unenforceable for any reason, the invalidity of such term, condition, covenant or provision shall in no way affect any other terms herein. Further, the remaining terms of this Agreement shall be construed so as to secure to the parties the legal, equitable, practical and other benefits of the provisions of this Agreement and to effect the intent of the parties hereto to the maximum extent permitted by law.

In Witness Whereof, the parties have executed this Agreement as of the date first above written.

For Affiliate:

For Affiliate: (Project Director)

By: _____

By: _____

Hugh Hallman, Mayor

Peggy Goldberg

City of Tempe

Community Services Department

3500 South Rural Road, Tempe AZ 85281

DATE

DATE

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

For Experience Corps:

By: _____

Lester Strong

PRINT NAME

CEO

TITLE

2120 L Street NW, Washington D.C. 20037

ADDRESS

DATE

Exhibits

- Exhibit A: Experience Corps Branding Standards and Guide
- Exhibit B: Experience Corps National Growth, Service Delivery, and Project Support Standards
- Exhibit C: Experience Corps Affiliate Work Plan
- Exhibit D: Experience Corps Financial Management Survey



BRANDING STANDARDS GUIDE





Experience Corps® engages older adults as tutors and mentors in urban public schools. Launched in 1995 in five cities, Experience Corps now includes projects in 13 cities, with more than 1,250 participants providing tens of thousands of hours of service. For more information, go to www.experiencecorps.org.

This branding standards guide will help Experience Corps position itself, nationally and locally, by creating a solid and consistent brand awareness.

LOGO COLORS

CLEAR SPACE

LAYOUT
COMPONENTS

COLOR
PALETTE

TYPEFACES

STATIONERY

CO-BRANDING

PRODUCTION
DETAILS

LOGO COLORS

CORRECT USAGE

THREE COLOR LOGO PREFERRED

The Experience Corps Logo should appear in its official colors whenever possible (Pantone 1807, Pantone 5777 and Black). The three-color logo will appear on marketing materials, web sites, signs, ads and stationery.



BLACK AND WHITE LOGO USAGE

When you cannot use the official colors, you should print the logo in black with shades of black.



When the logo must knock out of a black box, use shades of black and white.



INCORRECT USAGE

The Experience Corps Logo should never appear in a single color or all black.



The Experience Corps Logo should never be completely knocked out to white on any black or color background.





CLEAR SPACE

To maintain the integrity of the Experience Corps Logo, a minimum amount of white space must be maintained in all applications. Our minimum is equal to the first “E” in Experience. Never let anything invade or interfere with this space.

CLEAR SPACE

the strength of experience

being an essential link

energy

diversity

human touch

endless and diverse opportunity

LOGO COMPONENTS

CORRECT USAGE

The Experience Corps type, graphic and “®” symbol should always be used together.

Consistent application of our official identity creates greater awareness and strengthens our image in the marketplace.



INCORRECT USAGE

Do not use any of the elements separately.



LOGO COMPONENTS



sharing one's life experience

bringing individuals together to strengthen the community

new & diverse opportunities

interaction

OFFICIAL COLOR PALETTE



Pantone 1807
(C = 0, M = 90, Y = 95, K = 30)



Pantone 5777
(C = 10, M = 0, Y = 47, K = 27)



30% Black 100% Black

The Experience Corps color palette should be used in print and electronic applications whenever possible. This color palette will maintain a consistent identity throughout all marketing and web collateral and materials. When collateral is being produced in black and white, please use the grey-scale version of the Experience Corps Logo.

OFFICIAL COLOR PALETTE



the sky is the limit

harnessing the power

retirement is the beginning

building on experiences

life is a continuing journey

TYPEFACES

Minion

Minion Italic

Minion Bold

Minion Bold Italic

MINION EXPERT

MINION SEMIBOLD SMALL CAPS

Trade Gothic Light

Trade Gothic Light Oblique

Trade Gothic Bold

Trade Gothic Bold Oblique

The Experience Corps identity system uses two families of type for all communications: Minion and Trade Gothic.

MINION EXPERT IN SMALL CAPS

TRADE GOTHIC BOLD

For print applications Minion Expert in Small Caps should be used for all taglines used with the Experience Corps Logo. Minion Semibold Small Caps or Trade Gothic Bold should be used for all headlines, titles, and subheads.

MINION REGULAR

TRADE GOTHIC LIGHT

For print applications Minion Regular or Trade Gothic Light should be used for lengthy body copy (three or more paragraphs).

If the Experience Corps fonts are not readily available, please substitute the Palatino family for the Minion family and the Arial family for the Trade Gothic family.

TYPEFACES

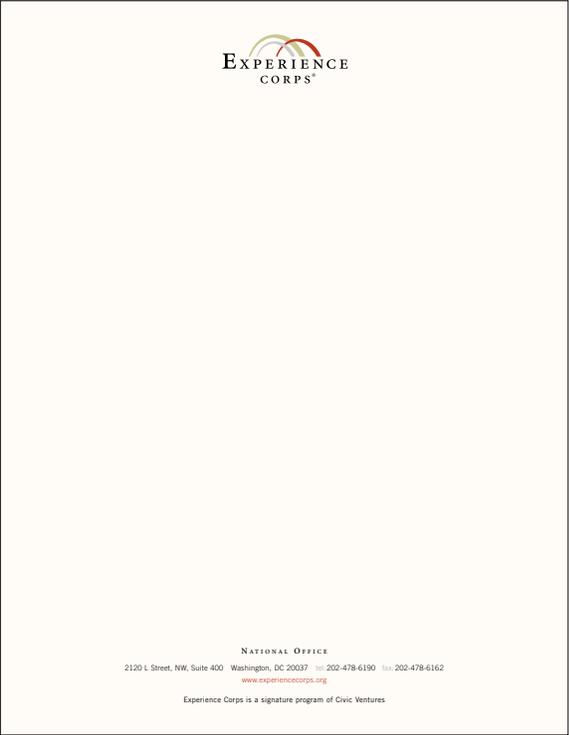
coming together

being a part of a community

diverse experience

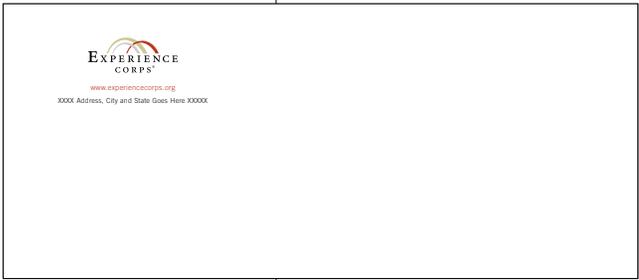
individuality in a larger community

layers of life, layers of experience



STATIONERY

National stationery is always distinguished by a cream paper stock. Only collateral directly related to the National office will use this application. All other stationery will be printed on bright white paper stock. National office stationery will include the line, “Experience Corps is a signature program of Civic Ventures”. Local projects are not expected to use it.

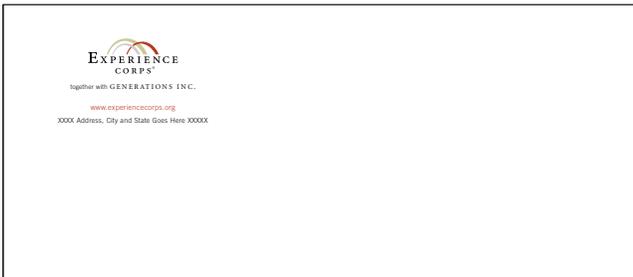
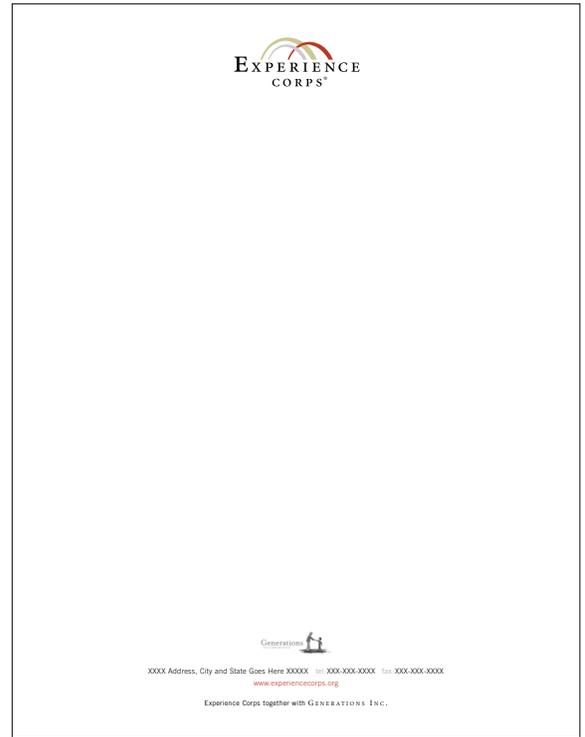
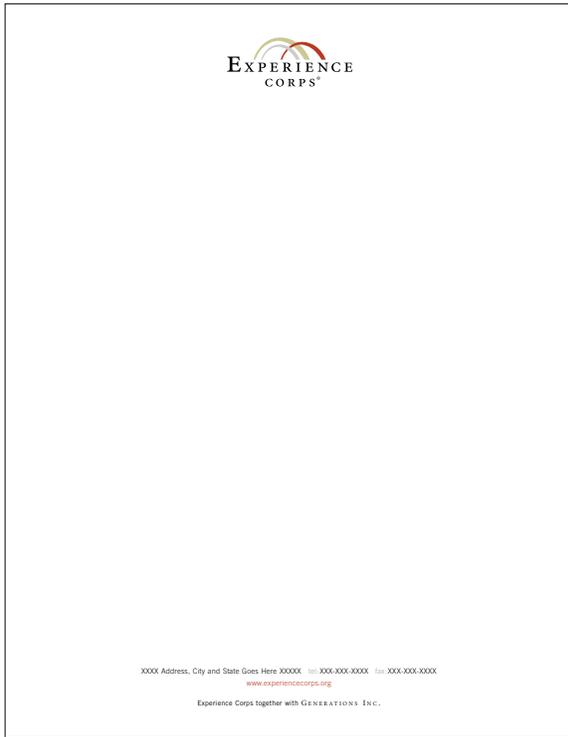


STATIONERY

the freedom to continue to explore

the strength and personality of the experience

growing the future



CO-BRANDING

When it is necessary or desirable to include another organization on the Experience Corps letterhead, please set the name in Minion Regular Small Caps no larger than 6 point size. If Minion is not available, please set in Palatino Regular Small caps no larger than 6 point size.

Please ask the National Office to advise on additional co-branding of collateral materials that do not conform to the above.

CO-BRANDING

bridging knowledge and experience

interaction

strength in community

choosing the path/outlet that is best for you

the linking of experiences

PRODUCTION DETAILS

EXPERIENCE CORPS IDENTITY

Please maintain 1/2" white space around the entire logo

3-Color Spot Logo:

(Suggested use for print)

- Red – Pantone 1807
- Green – Pantone 5777
- Black



4-Color Spot Logo:

(Suggested use for silk-screening)

- Red – Pantone 1807
- Green – Pantone 5777
- Gray – Pantone Cool Gray 4
- Black



4-Color Process Logo:

(Alternate suggested use for print)

- Red (C = 0, M = 90, Y = 95, K = 30)
- Green (C = 10, M = 0, Y = 47, K = 27)
- Gray (K = 30)
- Black



1 Color Logo:

(Suggested use newsprint)

- Black



PRODUCTION
DETAILS

coming together

being a part of a community

diverse experience

individuality in a larger community

layers of life, layers of experience

2120 L Street, NW, Suite 400 Washington, DC 20037 tel: 202-478-6190 fax: 202-478-6162
www.experiencecorps.org

Experience Corps® is a signature program of Civic Ventures

Experience Corps

National Growth Strategy, Service Delivery, and Project Support Standards

2010-2011

MISSION: To create powerful opportunities for older adults to meet society's greatest challenges.

VISION: Older adults in service to children are an integral part of the education strategy across America. Through this generational exchange, children succeed, older adults thrive and communities are made stronger.

Introduction.....	3
National Growth Strategy.....	4
A. Reaching Critical Mass Through Impactful Growth	4
B. School District Selection Criteria.....	4
C. School Selection Criteria	4
D. Grade Selection Criteria	5
E. Classroom and Student Selection Criteria	5
Service Delivery	6
A. Content and Curricula	6
1. Subject Content.....	6
2. Curricula	6
B. Service Intensity	7
1. Dosage Levels.....	7
2. Member-Student Ratio and Consistency	7
Project Support	8
A. Governance and Organizational Structure.....	8
1. Host Relationship with the National Office	8
2. Governance.....	8
B. Finance and Operations	8
1. Financial Management.....	8
2. Information Technology and Data Management.....	9
3. Measurement and Reporting	10
4. Legal, Administrative, and Risk Management.....	10
C. Human Resource Management.....	10
1. HR Policies.....	10
2. Member Recruitment and Management	11
D. Fundraising, Marketing, and Communication	14
1. Fundraising.....	14
2. Marketing and Communication	14
E. Advocacy, Policy, and School System Relationship Management.....	15
1. School System Relationship Management.....	15
2. Advocacy and Policy.....	15
Appendices	16
A. Glossary.....	16

Spring 2010

Dear Experience Corps Leader,

Experience Corps works! I don't have to convince you of that fact. Now the work is about building together a stronger organization to ensure that the Experience Corps model is in every school that can benefit from it. We've worked for more than fifteen years on the model and particularly hard for the last year to create a strategic growth plan that positions every Experience Corps program for the achievement of that goal.

As we look ahead to grow sustainably, Experience Corps will strive to finely hone its mission and flawlessly execute our evidence-based model. We must also design and invest in systems and processes that are consistent network-wide. It is with that intention that we submit to you the *National Growth Strategy, Service Delivery, and Project Support Standards*. The standards are based on the Washington University in St. Louis research and informed by network colleagues who understand the day-to-day challenges and opportunities of running Experience Corps programs. The standards are also drawn from my interactions with each of you as well as the work the National staff does with you every day.

The goal of these standards is to continue to:

- Provide a framework to help members with the best tutoring and mentoring practices;
- Generate increased funding opportunities for Experience Corps's demonstrated excellence; and
- Ensure Experience Corps members have a quality and meaningful experience while engaging with students and with each other.

The Experience Corps operating standards were created with these objectives in mind, and offer an accountability system that will guide, measure and improve the service and program models so we stay innovative and become an integral part of the literacy intervention of schools and districts.

I am inspired by the potential of these standards to make us stronger together. I'm also extremely encouraged by the depth of your contributed insights and fully understand how important your continued support will be as we fulfill the mission and vision of a re-imagined Experience Corps.

Thank you for your commitment to ensure that all students have the opportunity to succeed in reading and to those trained and caring older adults who guide them.

All the best,

Lester

National Growth Strategy

A. Reaching Critical Mass Through Impactful Growth

Core Elements: In Year 1, affiliates will aim to lay the foundation for future growth by focusing on excellence first, through improving existing service delivery execution to meet national standards. Following that, affiliates will aim to achieve growth in alignment with the national strategy in the following ways, in descending order of priority: 1) Increased service levels within schools currently served, 2) expansion to additional schools within districts currently served, and 3) expansion to additional districts.

Degrees of Latitude: To be determined by mutual agreement based upon the contexts of individual affiliate markets and potentially including districts' and schools' ability to pay.

Standardization Rationale: To provide a framework for local growth decision-making in support of achieving the Experience Corps vision and national goal of doubling the number of students who make academic progress within the next five years.

National Support: The national office will contribute to local affiliate growth plans by helping to shape national education policies to help position Experience Corps as an integral component of national education strategy. We will facilitate the sharing of best practice growth strategies and tactics between EC affiliates. Through project quality assurance monitoring, we will identify common project barriers and successes to further refine local and national growth strategies.

B. School District Selection Criteria

Core Elements: Affiliates will seek to serve districts displaying significant percentages of schools failing to meet Adequate Yearly Progress (AYP) (or other forthcoming federal quality metric), with preference given to districts with higher percentages of Title I schools serving predominantly underserved low-income communities and those districts who have failed to meet AYP for fewer years.

Degrees of Latitude: To be determined by mutual agreement based upon the contexts of individual affiliate markets, potentially including districts' and schools' ability to pay.

Standardization Rationale: Given that wealthier districts generally have access to additional resources and that chronic underperforming schools are targeted with additional state and federal resources for turn-around, early intervention in resource-disadvantaged districts with shorter negative track records best leverages Experience Corps resources to maximize its impact.

National Support: The national office will provide guidance on district selection and district-level memorandum of understanding (MOU) templates as necessary for affiliate use. The national office will also provide relationship coaching, strategy development, direct support with LEAs/SEAs/Principals to gain access to school systems. See Advocacy, Policy, and School System Relationship Management section for more details.

C. School Selection Criteria

Core Elements: Within selected districts, affiliates will seek to serve schools failing to meet Adequate Yearly Progress (AYP) (or other forthcoming federal quality metric), with preference given to Title I schools serving predominantly underserved low-income communities and those schools who have failed to meet AYP for fewer years.

Degrees of Latitude: To be determined by mutual agreement based upon the contexts of individual affiliate markets, potentially including districts' and schools' ability to pay.

Standardization Rationale: Given that chronic underperforming schools are targeted with additional state and federal resources for turn-around, early intervention in districts with shorter negative track records best leverages Experience Corps resources to maximize its impact.

National Support: The national office will provide school-level memorandum of understanding (MOU) templates as necessary for affiliate use.

D. Grade Selection Criteria

Core Elements: Within selected schools, affiliates will seek to serve the individual needs of the school system in the K-3 grade range, with preference given to starting in the earliest possible grade.

Degrees of Latitude: Projects that are already serving grades 4-5 may continue to do so, provided they can present a compelling rationale and demonstrate adequate project and member capacity to foster the expansion of services to K-3 students. No older grades should be served.

Standardization Rationale: The evidence shows that intervention at the earliest point possible in a student's literacy trajectory has the greatest academic impact, but this knowledge must be balanced with the inherent logistical challenges to executing Kindergarten interventions in many districts. Additionally, the learning requirements of older grades require new organizational capabilities not currently in EC's competencies.

National Support: The national office will provide relationship coaching, strategy development, direct support with LEAs/SEAs/Principals to gain access to school systems. See Advocacy, Policy, and School System Relationship Management section below for more details.

E. Classroom and Student Selection Criteria

Core Elements: Within selected grades, affiliates will seek to serve the needs of classrooms and students identified by principals and teachers.

Degrees of Latitude: Members will focus on students with literacy intervention needs, not those flagged for disciplinary action or special education.

Standardization Rationale: Serving students with needs beyond basic literacy deficits often requires intervention by professional educators by law and falls outside the scope of Experience Corps's core competencies.

National Support: As feasible, the national office will provide updated evidence-based research data to support appropriate student selection criteria.

Service Delivery

A. Content and Curricula

1. Subject Content

Core Elements: Affiliates will provide tutoring or academic mentoring focused primarily on supporting the five components of reading (phonics, phonemic awareness, vocabulary development, fluency, and reading comprehension).

Degrees of Latitude: As part of supporting the five components of reading, members may use other subject (e.g. science or social studies) texts, provided the session remain primarily focused on literacy. Affiliates may provide limited support of math curricula with a compelling rationale and adequate project staffing infrastructure, member training capacity, and demonstrated member math competency. Additionally, while members must meet their minimum hourly requirement (see Member Service Agreement section below), they may engage in additional school community building activities, provided these don't impede the ability to serve more students with the minimum dosage level literacy intervention or could be construed as teachers' assistants or general classroom aides work. Specific grant-funded volunteer positions (e.g. AmeriCorps) may have additional guidelines that must be deferred to.

Standardization Rationale: While the national office understands that districts and schools are in high need of and seeking interventions across multiple subject areas, the current evidence base shows the efficacy of Experience Corps as a reading literacy intervention model. Pending future research and positive findings for interventions in additional subjects, focusing on literacy is currently the most effective deployment of resources and positions the network for the greatest growth and impact potential.

National Support: The national office will provide "train the trainer" trainings on executing Experience Corps tutoring and academic mentoring models, as well as on-going research-supported best practice strategies and tips on 1:1 literacy tutoring and mentoring.

2. Curricula

Core Elements: Affiliates will support district-approved reading literacy curricula that:

1. Is proven to support the five components of reading (phonics, phonemic awareness, vocabulary development, fluency, and reading comprehension)
2. Meet Experience Corps National Office standards from a national portfolio of options to be defined by mutual agreement at a future date.

Degrees of Latitude: Dependent of grades served, the curricular mix and focus of the five components of reading may vary.

Standardization Rationale: Following district-approved curricula ensures academic alignment with the schools. Using evidence-based curricula ensures student outcomes that align with national social impact goals.

National Support: The national office will provide standardized member training and technical assistance and when requested, assist affiliates in identifying evidenced-based curricula that compliments state and/or district benchmarks.

B. Service Intensity

1. Dosage Levels

One-to-One Tutoring Focus

Core Elements: Affiliates must demonstrably move students towards reading proficiency by ensuring that each student served receives a minimum of thirty five sessions comprised of a minimum of thirty-minutes of instructional time with an active member (see glossary for definitions of “instructional time” and “active member”), no less than twice per week. Students are expected to remain in the EC program for the entire school year, unless there is evidence that the student requires professional intervention.

Degrees of Latitude: Affiliates should seek to provide per student dosages that exceed the proven minimum number of sessions, provided that doing so does not prevent additional underserved students from receiving the minimum dosage literacy intervention.

Standardization Rationale: To ensure attainment of national impact goals, the national office highlights evidence-based curricula that require minimum dosage levels as a tipping point for successful literacy interventions.

National Support: The national office will provide updated, evidence-based dosage targets based on proven research and will work with projects to develop and facilitate corrective action plans as necessary to ensure adherence to national dosage standards.

In-class Tutor Focus

Core Elements: Affiliates must ensure that each class served receives a minimum of 8 hours of instructional time per week by active in-class Experience Corps members.

Degrees of Latitude: Per class dosages may exceed minimum, provided doing so does not prevent additional underserved classrooms from receiving the minimum dosage literacy intervention.

Standardization Rationale: Affiliates must ensure that members take a child-centered approach, based on teacher-identified need of eligible students (see definition of eligible student)

National Support: The national office will provide updated, evidence-based dosage targets based on proven research and will work with projects to develop and facilitate corrective action plans as necessary to ensure adherence to national dosage standards.

2. Member-Student Ratio and Consistency

One-to-One Tutoring Focus

Core Elements: The one-to-one tutoring ratio is one active member to one student per 30 minute session. Members should be consistently paired with the same students for a minimum of two sessions per week.

Degrees of latitude: Provisions may be made to provide substitutes during member absences.

Standardization Rationale: The evidence-based research results support low ratios and consistent pairing of members with the same students as key success factors to developing the trusting relationships critical to successful literacy interventions.

National Support: The national office will provide updated, evidence-based dosage targets based on proven research and will work with projects to develop and facilitate corrective action plans as necessary to ensure adherence to national dosage standards.

In-class Tutor Focus

Core Elements: Active members should consistently serve the same classroom every session. Small group in-class tutoring ratios should not exceed one active member to four students.

Degrees of Latitude: Provisions may be made to provide substitutes during member absences.

Standardization Rationale: The evidence-based research results support low ratios and member-student consistency as key success factors in successful literacy interventions.

National Support: The national office will provide updated, evidence-based dosage targets based on proven research and will work with projects to develop and facilitate corrective action plans as necessary to ensure adherence to national dosage standards.

Project Support

A. Governance and Organizational Structure

1. Host Relationship with the National Office

Affiliate Agreement

Core Elements: The project's host agency will sign an individualized Affiliate Agreement.

Degrees of Latitude: None

Standardization Rationale: To ensure brand consistency, legal indemnification, a clear understanding of expectations by both parties and increasing strategic alignment of a growing national network.

National Support: National will work with each affiliate to craft an agreement that both provides for adherence to national standards and reflects individual market contexts.

Affiliate Fees

Core Elements: None for 2010

Degrees of Latitude:

Standardization Rationale:

National Support:

2. Governance

Board Approval

Core Elements: The project's host agency will secure documented approval (via letter of approval) of the Experience Corps partnership from its Board of Directors.

Degrees of Latitude: None

Standardization Rationale: Ensures clear host understanding and leadership alignment around agreement with the national office.

National Support: The national office will commit to a collaborative Affiliate Agreement development process, engaging in open discussions with affiliate Boards of Directors, and clarifying Affiliate Agreement details as necessary.

Project Leadership

Core Elements: None for 2010

Degrees of Latitude: To be determined by mutual agreement prior to Year 2 (fall 2011)

Standardization Rationale: To ensure that the skills and capacity of incoming Project Directors align with Experience Corps standards and national growth strategy.

National Support: To be determined prior to Year 2 (fall 2011)

B. Finance and Operations

1. Financial Management

Budget Preparation and Planning

Core Elements: Affiliates will use an EC-provided template at the start of their fiscal year to present project budgets (including fundraising forecasts) that account for the resources necessary to support the national growth strategy.

Degrees of Latitude: None

Standardization Rationale: To ensure an accurate accounting of cost per child as well as the overall financial health of the Experience Corps network, to more accurately forecast network growth requirements, to provide targeted affiliate assistance, and to identify and disseminate best practices network-wide.

National Support: In Year 1, National will provide a template to complete. At the conclusion of year 1 and in subsequent years, National will aggregate projected affiliate budgets versus actual and will disseminate the results to the network for benchmarking purposes, as well as to share best practices and lessons learned.

Financial Reporting

Core Elements: Affiliates must dedicate resources to ensure submission of accurate budget-to-actual reports to National twice annually in accordance with EC-provided templates and procedures.

Degrees of Latitude: To be determined prior to Year 2 (fall 2011)

Standardization Rationale: To support the compilation of a timely and accurate accounting of the overall financial health of the Experience Corps network.

National Support: National will provide reporting templates. The National Office will provide training and technical assistance to aid reporting.

Fee for Service

Core Elements: Affiliates will work to increase their revenues from fee for service from individual schools to cover 25% of the cost of serving those schools by School Year (SY) 2012.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To ensure a sustainable base of locally generated affiliate income to support continued operations and growth.

National Support: The national office will provide fee for service strategy guidance and support.

2. Information Technology and Data Management

Computer Hardware /Software Standards

Core Elements: Project computer hardware and software should adhere to minimum requirements set by the national office. Specifications will be laid out in equipment and standards addendum to affiliate agreement, to be updated annually.

Degrees of Latitude: To be determined by mutual agreement.

Standardization Rationale: To streamline national data synthesis efforts and successful data sharing across the network.

National Support: The national office will provide unified best practices standards, web cameras for key affiliate staff to allow for web-conferencing and facilitated training and technical assistance.

Data entry, storage, and security protocols

Core Elements: As soon as it is available, affiliates will enter relevant program data into a nationally managed database on a to-be-determined regular basis.

Degrees of Latitude: To be determined by mutual agreement.

Standardization Rationale: To ensure network-wide data security, web-enabled access to shared, real-time data, and provide a foundation for effective technical assistance by the national office.

National Support: The national office will procure, install, and manage a national affiliate database, including ongoing maintenance and training on standards for data storage and security.

3. Measurement and Reporting

Date collection and reporting processes

Core Elements: Projects will follow measurement and reporting processes and schedules and submit data in a, to be determined by mutual agreement, format defined by National Office. Affiliates will comply with annual benchmarking and semi-annual reporting to the national office in accordance with the schedule detailed in their affiliate work plan.

Degrees of Latitude: Affiliates are encouraged to collect city- or project-specific data for local grants or internal measurement, provided doing so does not interfere with national data collection priorities or schedules.

Standardization Rationale: To standardize data collection processes and streamline national reporting to allow for enhanced network learning, continuous service delivery improvement, timely and effective reporting to national funders, and real-time access into project-appropriate and national data.

National Support: The national office will conduct audits and provide feedback, including training and technical assistance as needed. It will develop and make available a web-based system (TBD) and/or other systems including survey tools (based on funder requirements) to input and manage local data. Prior to the provision of a national database, the office will continue to provide data processing, analysis, and reports on a schedule to-be-detailed in a reporting calendar.

External Research

Core Elements: Projects will participate in national research initiatives.

Degrees of Latitude: To be determined by mutual agreement.

Standardization Rationale: To provide a continually growing evidence base to inform program service delivery improvements and provide compelling material for marketing and communication content.

National Support: The National Office will initiate a research agenda and provide opportunities for affiliates to participate in ongoing research initiatives.

4. Legal, Administrative, and Risk Management

Release Forms

Core Elements: Affiliate will distribute any releases or consent forms required by the national office for Experience Corps activities. Affiliates will secure the signature of a participant before allowing him or her to participate in the EC program for which EC requires execution of a release or consent form.

Degrees of Latitude: To be determined by mutual agreement.

Standardization Rationale: To minimize financial, legal, and brand risks for the network.

National Support: National will provide sample release forms.

C. Human Resource Management

1. HR Policies

Core Elements: Affiliates must have standardized member and project policies meeting standards set by the national office (e.g. crisis communication, members' citizenship status, file retention, indemnification/liability, and legal relationships).

Degrees of Latitude: Specific policy requirements will be determined by mutual agreement.

Standardization Rationale: To minimize financial, legal, and brand risks for the network.

National Support: National will provide sample policies and/or minimum standards.

2. Member Recruitment and Management

Recruitment Plan Maintenance/Growth Goals

Core Elements: Projects will work with the national office to develop a written recruitment plan aligned with national goals to engage adults age 55+ in service to bridge the achievement gap in education.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To ensure a sustainable base of members to support continued operations and growth.

National Support: The national office will provide a template for the recruitment plan, as well as guidance on recruiting strategy and customized site-based assistance as feasible.

Segmentation and Targeting

Core Elements: Affiliates will target potential members who are legal US residents, preferably age 55+, have a GED/HS diploma, and have no sexual or violent criminal record, with special focus on recruiting members from neighborhoods of the schools.

Degrees of Latitude: Subject to local law. AmeriCorps members may be <55. On an individual basis, applicants with non-sexual or non-violent criminal records may be considered for member service.

Standardization Rationale: To minimize financial, legal, and brand risks for the network.

National Support: The national office will track societal and demographic trends of the aging US population, volunteerism, and education to provide current best practice strategies and tactics to network affiliates for member recruitment.

Recruitment Messaging

Core Elements: Recruitment marketing materials should reflect local market contexts, but will be consistent with national brand standards (see Marketing section).

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To ensure a sustainable and consistent base of qualified members to support continued operations and growth.

National Support: The national office will provide branding, messaging, best practices information, and (as feasible) marketing materials to support local recruitment efforts.

Recruiting Partnerships

Core Elements: Projects will identify and cultivate relationships with top-level local political and civic leaders (Mayor, local legislators, school boards, influential religious leaders, etc.) and local representatives of national partners to support national recruitment benchmarks.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To ensure a sustainable and consistent base of qualified members to support continued operations and growth.

National Support: National will establish national-level recruiting partnerships which reinforce the significance of service by older adults and the effect that generational exchange has on the learning environment. National will disseminate and provide training on developing local recruiting partnerships and events.

Recruiting and Screening

Core Elements: Affiliates will respond to prospective member inquiries in a timely manner, track the source of all inquiries, and report recruitment outcomes to national. Affiliates will provide members with a nationally-approved member position description and service agreement which they must sign. In addition to conducting rigorous job interviews and reference checks, affiliates must conduct a criminal background check and NSOPR (national sex offender public registry) check, and ensure completion of required paperwork prior to signing on members.

Degrees of Latitude: None

Standardization Rationale: To minimize financial, legal, and brand risks for the network and ensure a strong and growing pipeline of qualified members.

National Support: The national office will provide position description templates to affiliates, along with recruiting and screening best practices gathered from the network. The national office will also provide customizable member service agreements to affiliates.

Member service agreements

Core Elements: Members will sign a nationally-approved service agreement in which they commit to “active membership” in the Experience Corps program. To be defined as an “active member” for the 1:1 model, volunteers must commit to a daily minimum of 2.5 hours of instructional time for no less than two days per week, for a minimum total of five hours per week. To be defined as an “active member for the in-class model, volunteers must commit to a weekly minimum of 4 instructional hours, with no less than one hour per day. In addition to instructional time commitments, members must also commit to member training minimums detailed in the “Onboarding and Training” section below.

Degrees of Latitude: None

Standardization Rationale: The evidence base (Washington U. study) supports repeated face time and minimum dosage levels to achieve Experience Corp’s social impact goals. Furthermore, requiring minimum service requirements minimizes the incidences of increased management costs incurred by episodic volunteers.

National Support: National will provide customizable templates for member service agreements, member tutor logs and member timesheets. National will provide training and opportunities for learning, team-building, leadership development and recognition of member contributions.

Onboarding and Training

Core Elements: All members will be required to have a minimum of 25 training hours throughout a service year. The required content for those minimum 25 hours of training should include the following components:

- *New volunteer and returning member orientation:* introduction to EC mission, vision, & brand; responsibilities of members; safety and risk mitigation; overview of the EC tutoring and mentoring program; orientation to the local service site; and, basic/intermediate/advanced training (as appropriate to member) across the following topics: literacy (including the five components of reading), tutoring and mentoring techniques, child development, behavior management, and relationship building. If affiliate also selects a curriculum from the EC approved list, affiliate must provide additional training consistent with curriculum recommendations.
- *Regular In-service training:* affiliates will provide members with on-going in-service trainings (minimum of 3x annually) that support primary service activity. Topics for in-service training may be selected from The Learning Experience CD-ROM or EC Link. Affiliates are also required to have a minimum of one in-service training which focuses on a topic of interest to their corps.

- *Informal on-going training and/or peer learning:* Training calibration for members, i.e. EC staff or teacher coaching; peer shadowing; and peer best practice sharing.
- *Leadership development training:* Affiliates will provide members with the opportunity for leadership development through: leadership and public speaking trainings; delivery of peer teaching; and/or opportunities for leadership positions.

Degrees of Latitude: Affiliate may develop or outsource training targeted at local need(s) with the appropriate Standardization Rationale. An affiliate’s menu of training opportunities will vary based on primary service delivery activities, i.e. 1:1 vs. in-class.

Standardization Rationale: To ensure a consistently well-trained and satisfied base of qualified members to support continued operations and growth.

National Support: The national office will disseminate core member training modules via “train the trainer” webinars, and in-person at the annual national meeting and annual regional meetings. The national office will also provide a training and technical assistance library via the affiliate network intranet, a CD-ROM, and on-going support from National Training Manager.

Team Meetings

Core Elements: Affiliates will ensure that members attend a minimum of one in-person 30 minute team meeting monthly.

Degrees of Latitude: Affiliates may exceed the minimum number of team meetings per month and meeting settings may vary, including occasional conference calls.

Standardization Rationale: To facilitate peer networking (best practice sharing, etc.), increase volunteer management logistic coordination, and, as appropriate, provide monthly in-service training.

National Support: The national office will support the facilitation of member team meetings by identifying relevant topics for discussion and trainings via the national intranet.

Member Performance Management

Core Elements: Affiliate will utilize a nationally provided member progress review 2x per year and conduct post-training surveys.

Degrees of Latitude: None

Standardization Rationale: To ensure a sustainable, well-managed base of members to support continued operations and growth.

National Support: The national office will provide affiliates with a member progress review template.

Member Recognition

Core Elements: Affiliate will provide opportunities for member growth and at least one annual member-recognition event, as well as ongoing opportunities to express EC’s appreciation of the service of its members. Member satisfaction will be measured annually through member satisfaction surveys and member return rates.

Degrees of Latitude: Affiliates may determine, based upon local context, whether or not to offer additional member appreciate events and/or stipends or awards to members.

Standardization Rationale: To ensure a sustainable and satisfied base of members to support continued operations and growth.

National Support: The national office will directly recognize members with thank you letters and cards several times per year, and will provide affiliates with a member satisfaction survey template and suggestions for member appreciation as gathered from other EC projects.

D. Fundraising, Marketing, and Communication

1. Fundraising

Fundraising Plan

Core Elements: Projects will work with the national office to develop a local written fundraising plan aligned with national network goals consisting of diversified resources from government, private, and corporate sources.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To ensure a sustainable base of funding to support continued operations and growth.

National Support: As appropriate, the national office will include sites in its national grant requests. The national office will also provide a template for the fundraising plan, as well as guidance on fundraising strategy and customized site-based assistance.

2. Marketing and Communication

Mission and Vision

Core Elements: Affiliates will adhere to national mission and vision standards.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To ensure consistent mission and vision execution across Experience Corps's national network.

National Support: National will provide mission and vision to network.

Brand

Core Elements: Projects must follow national brand standards and logo guidelines and promote EC messaging.

Degrees of Latitude: Co-branding will be permitted for use on materials used agency wide with the approval of national and based upon local market context.

Standardization Rationale: To ensure consistency across the national network to maintain the value of the Experience Corps brand.

National Support: The National Office will provide brand and logo guidelines, and updated promotional materials updated as necessary.

Communication Strategy

Core Elements: Projects will work with the national office to develop a written communication and marketing plan aligned with national goals, targeting local general and education media outlets.

Degrees of Latitude: To be determined by mutual agreement based upon local market context

Standardization Rationale: To support local and national marketing efforts to communicate Experience Corps as a credible academic intervention and keep the organization "top of mind" with diverse audiences such as government, research, education, business, volunteers, and the general public.

National Support: The national office will craft and share a messaging and marketing plan evaluated and updated annually. National will solicit regular affiliate input and provide marketing training and technical assistance on local strategy as feasible.

E. Advocacy, Policy, and School System Relationship Management

1. School System Relationship Management

Local Education Agency (LEA) Relations

Core Elements: Projects must create, maintain, and provide communication to the national office on in-person relationships with top-level (Superintendent, Chief Academic Officer, District Reading Specialist, Principals, etc.) LEA officials. Relationship building includes office visits, site visits, and at least one invitational event per year.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To secure partnerships with schools, access a range of local support (including sustainable funding streams from fee for service), and gain a deep level of trust and respect with districts as an integral educational intervention for students that leverages the growing population of older Americans.

National Support: The national office will assist affiliates in the development of an LEA relations strategy and work with them to secure local funding.

State Education Agency (SEAs) Relations

Core Elements: Projects will proactively inform (and, as needed, engage with) top-level SEA officials (State Secretary of DOE, etc) of key Experience Corps messaging, including evidence-based research studies, opportunities to sign on to grant applications, and other opportunities as defined by the national office.

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To secure state funding and federal funding flowing through state offices to ensure a sustainable revenue mix for projects.

National Support: The national office will provide dedicated capacity to assist with state funding and strategy, including providing draft email templates, letters, and other collateral.

2. Advocacy and Policy

Federal relations

Core Elements: Projects will join national office working groups on policy topics and report on all contacts with identified leaders and all potential and received government funds. Projects will also partner with the national office to promote favorable legislation and communicate (via emails, meetings, and events) program barriers and best practices that can be addressed through Congressional legislation.

Degrees of Latitude: Full latitude in execution: Stories and photographs to support strategy.

Standardization Rationale: To mobilize the national network to drive federal policy change and achieve recognition of Experience Corps by key legislators that will benefit national and local efforts.

National Support: The national office will provide guidance on appropriate advocacy activities, email and letter templates, and other materials for affiliate use in national policy efforts. Additionally, the national office will arrange (and, as feasible, attend) and prepare affiliates with coaching for meetings with key legislators.

Local political and civic leaders

Core Elements: Projects will identify and cultivate relationships with top-level local political and civic leaders (Mayor, local legislators, school boards, influential religious leaders, etc.).

Degrees of Latitude: To be determined by mutual agreement based upon local market context.

Standardization Rationale: To gain visibility and financial and political support for programs with key local influencers and community members.

National Support: National will provide guidance on advocacy activities and opportunities for sharing network best practices and supporting materials as feasible.

Appendices

A. Glossary

“Active” Member: To be defined as an “active member” for the 1:1 model, volunteers must commit to a daily minimum of 2.5 hours for no less than two days per week, for a minimum total of five hours per week. To be defined as an “active member” for the in-class model, volunteers must commit a weekly minimum of 4 hours, with no less than one hour per day. Active members are expected to serve for an entire school year.

Affiliate: Agencies independent of the Experience Corps organization that host and coordinate Experience Corps activities within their communities.

Core Element: Those parts of the Experience Corps operating model that play a significant role in its successful execution and measured outcomes. The desired state for the EC Network.

Critical Mass: Impactful growth that provides measurable outcomes on improving Adequate Yearly Progress (or other forthcoming federal quality metric) at the student, school, district, and national level.

Degrees of Latitude: Areas in which affiliates may deviate from the Core Elements outlined in the national standards.

Dosage: The number and duration of tutoring sessions per student.

English-language learners: Those students who do not speak English as their native language.

Host: A local nonprofit or government agency that administers and supports the local execution of the Experience Corps program.

In-Class Model: A service delivery methodology that places EC members in the classroom as tutors and academic mentors to deliver targeted literacy interventions to groups of 1-4 children at a time for an entire school year.

Instructional Time: The core of a member-student session dedicated exclusively to tutoring and mentoring; Distinct from member training time, as well as the preparation time or small-talk that often brackets member-student interaction.

Local Education Association (LEA): An educational agency at the local level that exists primarily to operate schools or to contract for educational services, including primary and secondary public and private schools.

Member: An Experience Corps volunteer (both stipended and non-stipended) that has fulfilled all necessary requirements, has signed a member agreement, and is in good standing regarding meeting minimum commitment targets.

National Support: Those tools, trainings, and other resources provided to affiliates by the national office in support of tightening network standards and ensuring program fidelity.

One-to-One Model: A service delivery methodology that places EC members as tutors and academic mentors in a consistent 1:1 member-to-student ratio for a defined number of literacy sessions.

Project - the Experience Corps activities conducted by affiliates within a distinct geographic region, e.g., the Experience Corps project in Cleveland.

Session: The smallest unit of instructional interaction between EC member and student.

Standardization Rationale: The national office’s reason for tightening network standards around a given “Core Element.”

State Education Association (SEA) - The state-level government agency within each state responsible for providing information, resources, and technical assistance on educational matters to schools and residents.

Tutor /Academic Mentor: An Experience Corps member who provides literacy instruction and academic support to eligible students and develops impactful relationships with them to affect positive academic and behavioral outcomes.

Financial Management Survey For Experience Corps Projects 2010-2011

Please complete the form, answering each question or statement. You may need to ask others in the organization for assistance. For any "No" answers, please indicate *why* in the *Comments* section. Once complete, the form should be reviewed and signed by an authorized individual familiar with the organization's financial systems and a signed copy should be submitted to Experience Corps.

		Yes	No	Comments
1.	Organization has written financial management policies, including, but not limited to:			
	Internal Controls			
	Billing Procedures			
	Personnel Policies			
	Accounting Procedures Manual			
2.	Is the organization required to have an independent audit?			
3.	Is the organization required to have an A-133 audit? (Federal law requires all nonprofit organizations to have an A-133 audit whenever the organization expends \$500,000 or more in federal funding.)			
4.	Is the audit available for the most recent fiscal year?			
5.	The individuals responsible for the agency's financial records are sufficiently experienced and trained for the task.			
6.	Board members are insured against liability.			
7.	There is a budget for each program showing projected and actual income and expenses.			
8.	Organization has a written and updated chart of accounts showing what line categories and sub-categories are in use and how they coordinate with the agency's reporting requirements.			
9.	Organization's financial data is sufficiently accurate and timely (current within 30 days) to be used for planning, monitoring, and decision-making purposes.			
10.	Organization's financial reports contain all information needed by decision-makers.			
11.	The organization's financial reports meet the requirements of its funding sources.			

		Yes	No	Comments
12.	There is a separate filing system for all financial receipts, forms, and records.			
13.	The organization's cash disbursements are supported by adequate documentation.			
14.	Organization has an up-to-date journal system summarizing each month's transactions, including, but not limited to the following:			
	General Ledger			
	General Journal			
	Cash Receipts Journal			
	Cash Disbursements Journal			
	Accounts Receivable Ledger			
	Accounts Payable Ledger			
15.	Organization tracks each major grant or contract and can clearly and easily identify monthly expenses charged to each funding source.			
16.	Organization has established a system for separation of duties, ensuring that no one individual controls all aspects of a financial transaction (i.e., receiving cash, depositing cash, recording cash, reconciling bank account).			
17.	Organization has a system to ensure that those who authorize purchases are not the ones who pay for them, or at least have required counter-signatures for checks.			
18.	Organization has a written purchase order/check request system.			
19.	Organization has a closely controlled petty cash system.			
20.	There is a system for handling all contributions, grants, and earnings including a means of providing contributors with receipts and reports.			
21.	Is there currently a system to track matching, both in-kind and cash?			
22.	Does the matching system separate expenses by program?			
23.	If more than one program is being funded, accounting system must be able to differentiate between the programs – e.g. the Executive Director's time is spent monitoring two programs. Do you have an allocation plan to determine how much of his/her salary goes to each?			
24.	Is your payroll process supported with individual payroll activity reports that abide by provisions of OMB Circulars A-			

	102, A-110, A-122 and A-133, as applicable?			
25.	Does your accounting system and chart of accounts allow assignment of jobs or classes or other similar coding to track expenses eligible for reimbursement by the AmeriCorps Grant?			

If your audit were next month, would you have current:	Yes	No	Comments
• Bank statements and reconciliations			
• Contracts with Independent Contractors			
• Quarterly Payroll tax forms			
• Leases, loan agreements, insurance policies			
• Payroll activity reports for each paid employee			
• Personnel/Benefit policies			
• Depreciation Schedule			
• Signed timesheets to support payroll activity reports			
• Receipts and other supporting documents to support expenditures			

Acknowledgement – to be signed by two representatives of the Affiliate: one project staff representative and one organizational (host) financial representative.

We declare that we have examined and completed this form, and to the best of our knowledge and belief, the responses provided are true, correct, and complete.

For Project Affiliate (Project Director/Staff):

For Project Affiliate (Org Financial Officer/Mngr):

BY: _____

BY: _____

PRINT NAME

PRINT NAME

TITLE

TITLE

ADDRESS

ADDRESS

DATE

DATE

Insert Project Name - Year 1 (2010-2011)

Instructions & Definitions

Instructions	Due Date
<p>With the appropriate EC project and host agency staff, please complete the following standards work plan. Remember, this work plan will become an exhibit of your new EC affiliate agreement. Before getting started, please review the terms and definitions below and flip through the other 4 tabs to gather a feel for this tool. Also, please have a copy of the standards document on hand as a reference. For each standard, you will first be asked to provide a current baseline assessment of your EC project. If you are not currently meeting or exceeding a standard, please provide a specific, measurable, achievable and (most important) realistic target for Year 1. Finally, please describe your action plan for meeting your target. This should include: a) any barriers or challenges you foresee, b) the steps you will take to overcome and accomplish the target, and c) the resources (staffing, funding and recruitment) that you will employ to achieve or exceed your Year 1 target.</p>	<p>Please complete and return this workbook to Amy by 6/15/2010.</p>
Terms	Definitions
Baseline	Your current EC project state/status as demonstrated during the 2009-2010 program year (not what you hoped for but the <u>actual</u>).
Year 1 Target	If affiliate is neither meeting or exceeding each standard, affiliate defines a specific, measurable, achievable and realistic target to accomplish in Year 1 (Sept 2010-Aug 2011).

Milestone 1 Action Plan	Please describe the barriers or challenges you foresee, the steps you will take to overcome and accomplish the target, and the resources, including staffing, funding and recruitment, that you will need and employ to achieve or exceed your Year 1 target.
National Support Needed	The tools, trainings, and other resources provided to affiliates by the national office in support of tightening network standards and ensuring program fidelity.
Milestone 1 Assessment: (JAN)	Formal check-in point to review progress toward Year 1 Targets.
Milestone 2 Action Plan	As necessary, your revised action plan to achieve or exceed Year 1 Target.
Year-End Assessment (MAY/JUNE)	Formal check-in point to review progress toward Year 1 Targets.
Year-End Action Plan	As necessary, your revised action plan to achieve or exceed Year 1 Target, and/or steps that can be taken to prepare you to achieve Year 2 Targets.
Year 2 Target	If affiliate is neither meeting or exceeding a standard, affiliate defines a specific, measurable, achievable and realistic target to accomplish in Year 2 (Sept 2011-Aug 2012).
EC National provided templates and/or forms	National will provide all templates and forms by September 1, 2010.
Reporting Guidelines & Procedures	National will provide at least 30 days prior to all deadlines.
Individual Standard's Terminology	Please refer to standards' document glossary for definitions.
Guidance	
	1. Please use standards document as reference tool.
	2. Please review the "Examples" tab to help you get started.

<p>3. Please email Amy and Elizabeth if you need additional assistance. All questions should be submitted in writing so we can develop a FAQ document to support the entire network.</p>	
Next Steps	
<p>Once you submit this work plan with Baseline, Year 1 Targets, and Milestone 1 Action Plans completed for each standard in all 3 tabs, we will review it and schedule a meeting with you. During this meeting, we will ask for additional information, affirm and/or question your plan, and define the support we will provide to help you succeed. The final agreed upon work plan will become a part of your new affiliate agreement which requires host agency board of director's approval and host agency signature.</p>	<p style="text-align: center;">Time Frame</p> <p>Affiliate/National Meetings: June 21 - July 30, 2010. Approved & Executed Affiliate Agreements: August 31, 2010. Year 1 Action Plans begin: September 1, 2010.</p>

<u>Insert Project Name - Year 1 Growth Plan</u>			
Core Element		Baseline	Year 1 Target
National Growth Strategy			
Reaching Critical Mass through Impactful Growth			
Affiliates will aim to lay the foundation for future growth by focusing on excellence first, through improving existing service delivery execution to meet national standards. Following that, affiliates will aim to achieve growth in alignment with the national strategy in the following ways, in descending order of priority: 1) Increased service levels within schools currently served, 2) expansion to additional schools within districts currently served, and 3) expansion to additional districts.	7 schools	To maintain existing service levels, by continuing to serve 300 students engaging 60 volunteer tutors.	
Growth plan (Note: All projects are expected to double in size (in terms of number of members and number of students served) by the end of program year 2014-2015.)			No growth is required in Year 1, rather tightening around the standards is priority. If you do plan to grow in program year 2010-2011, please submit your target here.
School District Selection Criteria			
Affiliates will seek to serve districts displaying significant percentages of schools failing to meet Adequate Yearly Progress (AYP) (or other forthcoming federal quality metric), with preference given to districts with higher percentages of Title I schools serving predominantly underserved low-income communities and those districts who have failed to meet AYP for fewer years (i.e. failed AYP for 2 years rather than 4).	schools within both elementary districts have been	All school currently served are Title 1 designated . School districts selected schools based on student scores, resource needs and	
Number of districts served	2	2	

<p>District(s) Demographics</p>	<p>Tempe Elementary District 55% Free and Reduced lunch/ Kyrene De Los Ninos 61% Free reduced Lunch. Tempe Elementary Demographics: Based on census 2001-2002 data : 61% minority, 38% Hispanic, 11% African American, 9% Native American, 3% Asian. Kyrene De Los Ninos Demographics data obtained from IES 2007-2008 data, 66% minority, 30% Hispanic, 19% African American, 13% Native American , 4% Asian.</p>
<p>School Selection Criteria Within selected districts, affiliates will seek to serve schools failing to meet Adequate Yearly Progress (AYP) (or other forthcoming federal quality metric), with preference given to Title I schools serving predominantly underserved low-income communities and those schools who have failed to meet AYP for <u>fewer</u> years (i.e. failed AYP for 2 years rather than 4).</p>	<p>Meet/ all school served are Title 1</p>
<p>Number of schools served Each School's AYP Status</p>	<p>7 All schools met AYP as of 2008</p>
<p>Number of schools who are Title I</p>	<p>7 This is not applicable the district as a whole does not met AYP in 20% of their schools which are middle schools the program does not serve.</p>

<p>Grade Selection Criteria Grades served (please differentiate between 1:1 and classroom assistance in total)</p>	<p>K - 3 / 1-1</p>	<p>(Grades K-3 1/1)</p>
<p>Classroom and Student Selection Criteria Within selected grades, affiliates will seek to serve the needs of classrooms and students identified by principals and teachers.</p>	<p>DIBELS - Students testing as below grade level strategic according to the DIBELS assessment.</p>	<p>DIBELS Strategic/ with some latitude re Language Arts Coach recommendations</p>
<p>Number of classrooms served (if do all 1:1, then N/A)</p>	<p>N/A</p>	<p>NA</p>
<p>Number of students served (please differentiate between 1:1 and classroom assistance in total)</p>	<p>1/1 300</p>	<p>300 1/1</p>

Milestone 1 Action Plan	National Support Needed	Milestone 1 Assessment: (JAN)	Milestone 2 Action Plan	Year-End Assessment (MAY/JUNE)	Year-End Action Plan	Year 2 Goal
Plan to continue with seven schools in both elementary districts within city limits.	No assistance needed					
If applicable, please submit growth plan for program year 2010-2011. Projected growth plan will be developed in 2010-2011.	Plan will need to be developed to address realistic funding/staffing levels to ensure program fidelity/quality.	Draft plan submitted.				
Meeting or Exceeding Standard	NA					
Serving all districts in City limits	NA					

Meeting or Exceeding	NA							
Meeting or Exceeding Standards / each school identifies grades or grade in most need of assistance based on students scores on the DIBELS assessment.	NA							
NA	NA							
Meeting or Exceeding Standards	NA							

Project Name - Year 1 Service Delivery Plan

Core Element

Baseline Year 1 Target Milestone 1
Action Plan

Content and Curricula

Subject Content			
Subjects supported (1:1)	Reading	Meeting Standards	
Percent of member time spent supporting reading (1:1)	100%	Meeting Standards	
Subjects supported (Classroom assistance)	NA		
Percent of member time spent supporting reading (Classroom assistance)	NA		
Curricula			
Curriculum used? (Identify title)	Specific Program developed by Certified Reading and Evaluation Specialist. Activities used sanctioned by the School Districts Curriculum Specialists.		
Curriculum used supports the five components of reading? If not, which components.	Supports all Five components/meets and exceeds standards	NA	
Curriculum used meets Experience Corps National Office standards ?	Meets and or Exceeds standards	NA	
Service Intensity			
Dosage Levels			
One-on-One Tutoring:	Meets and or Exceeds	Meeting Standards	
Minutes in tutoring session	30 / Meets	Meeting Standards	
Sessions per week	2 / Meets	Meeting Standards	
Total sessions per student	Max 52 , Exceeds/	Exceeding	

Classroom Tutoring:	NA	NA	NA
Total Hours of instructional time per week per classroom	NA	NA	NA
Member-Student Ratio and Consistency			
One-on-One Tutoring:	Meets and or Exceeds	Meeting Standards	
Member-student ratio (Is it always 1:1? / What's min/max? / What is percentage of members at differ ratios?)	1/1 100% of time unless tutor is absent and student is seen in conjunction with another student.	Meeting Standards	
Sessions per week with same member-student pairing	2/ Meets	Meeting Standards	
Classroom Tutoring:	NA		
Member-student ratio (i.e., number kids served at 1 time, not total # in class)	NA		
Percent of members consistently assigned to same Classroom	NA		

Tempe	Core Element	Baseline	Year 1 Target
Governance and Organizational Structure			
The project's host agency will sign an individualized Affiliate Agreement.		yes	100% Compliance
Governance	The project's host agency will secure documented approval of the Experience Corps partnership from its Board of Directors.	yes	100% Compliance
Finance and Operations			
Financial Management	Affiliates will submit one-year Experience Corps project budgets including fundraising forecasts in an EC-provided template at the start of their fiscal year.	Submit budget in EC format. Include fundraising forecasts.	
Affiliate will submit accurate budget-to-actual reports to National twice annually in accordance with EC-provided templates and procedures.		Agree	100% Compliance
Percent of budget covered by revenues from fee for service from schools; List source of fee.		Currently 0% of budget covered by fee. In-kind staff time provided by school districts.	To discuss with both Districts and school districts.
Information Technology and Data Management			
Computer hardware and software adheres to minimum requirements set by the national office.		Agree within scope of City policies.	
Measurement and Reporting			
Submit annual benchmarking against targets defined in affiliate agreement.		Meeting/ will continue to provide program data, student	
Semi-annual reporting in January.		Agree	Submit data
Annual compliance visit completed (Spring 2011).		Agree	Submit data
Data gathering required by sub-grant contracts.		Agree	Schedule visit
Legal, Administrative, and Risk Management		Agree	Submit requested data
Affiliate will distribute any releases or consent forms required by the national office for Experience Corps activities. Affiliates will secure the signature of a participant (member) before allowing him or her to participate in the EC program for which EC requires execution of a release or consent form.		Agree within understood staff	Maintain
Human Resources Management		Tempe Program policy r	
HR (member) Policies		Agree	Meeting Standards
Has standardized member HR policies meeting standards set by national.			

<p>Member recruitment and Management</p>	<p>Projects will work with the national office to develop a recruitment plan aligned with national goals of doubling in size over 5 years.</p>	<p>Tempe Project will agree to work on growth plan that is realistic for the local market.</p>	<p>To develop a written recruitment plan.</p>
<p>Affiliates will target potential members who are legal US residents, preferably age 55+, have a GED/HS diploma or pass an EC-approved proficiency test, and have no sexual or violent criminal record.</p>	<p>Tempe program reaches out to 50+, will target US residents for AmeriCorps positions. Tempe program educational requirement is a minimum high school diploma. Tempe members must pass school district requirements and or city when on city payroll. Meeting Standards.</p>	<p>Meeting Standards maintain</p>	<p>Meeting Standards maintain</p>
<p>Recruitment marketing materials should reflect local market contexts, and be consistent with national brand standards.</p>	<p>Tempe program currently only uses National Office materials ie flyers, program facts sheet brochures.</p>	<p>Maintain</p>	<p>Maintain</p>
<p>Projects will identify, cultivate, and report on relationships with top-level local political and civic leaders (Mayor, local legislators, school boards, influential religious leaders, etc.) and local representatives of national partners to support national recruitment benchmarks.</p>	<p>Tempe Project provides consistent data on local issues. Will maintain and or continue to provide updated information quarterly.</p>	<p>Maintain</p>	<p>Maintain</p>
<p>Affiliates will respond to prospective member inquiries in a timely manner, track sources, and report outcomes to national.</p>	<p>Agree. Tempe program</p>	<p>Maintain</p>	<p>Maintain</p>
<p>All members have signed nationally-approved service agreement.</p>	<p>Agree</p>	<p>Maintain</p>	<p>Maintain</p>

<p>Affiliates will conduct rigorous member interviews and reference checks.</p>	<p>Meets/ Tempe conducts interviews, and does reference checks on one reference provided. Will agree to conduct one telephonic and one electronic reference check.</p>	<p>Complete two reference checks. maintain</p>
<p>Affiliates must conduct a criminal background check and NSOPR (national sex offender public registry) check, and ensure completion of required paperwork prior to signing on members.</p>	<p>Tempe conducts NSOPR . School districts conduct criminal background checks through fingerprinting. Only candidates clearly are eligible to volunteer with program. School district provides a list of those cleared for service. Meets Standards</p>	<p>Maintain</p>

<p>To be defined as an "active member" for the 1:1 model, volunteers must commit to a daily minimum of 2.5 hours of instructional time for no less 2 days per week, for a minimum total of five hours per week. To be defined as an "active member" for the in-class model, volunteers must commit to a weekly minimum of 4 instructional hours, with no less than one hour per day.</p>	<p>Tempe Program is limited to two hours of direct instruction time with members seeing a total of four students for 2 hours per day. Limitations on time are due to school scheduling. Tempe Elementary District and Kyrene District schedule reading blocks of 90 minutes. Students are pulled out of the classroom for reading intervention ie tutoring during that time in most cases. Majority of Tempe members do not receive a stipend and commit to two days per week vs stipend who see two extra children and add an additional day to their schedule. Tempe</p>	<p>Maintain Current Schedule of Service.</p>
<p>Members will complete a minimum of 25 training hours throughout a program year across 4 components (provide training plan).</p>	<p>Currently providing 10 hours of initial pre-service training with four hours of review.</p>	<p>Will develop additional compor</p>
<p>Number of core pre-service training modules provided.</p>	<p>2</p>	
<p>Total hours of core pre-service training modules provided.</p>	<p>10</p>	

<p>Number of on-going in-service trainings provided (at least 3x annually).</p>	<p>3</p> <p>select three trainings in the areas of behavior management, child development, tutoring strategies and provide at scheduled training/meetings to be held during the school year. Specific dates to be determined.</p>
<p>Total hours of in-service training modules provided.</p>	<p>6 hours</p> <p>to provide three modules of selected training to be held throughout the school year.</p>
<p>Topics for in-service training selected from national best practices list.</p>	<p>Will select topics based on identified program and member needs.</p> <p>Provide scheduled training in Behavior Management, child development.</p>
<p>Number of peer learning opportunities provided.</p>	<p>Currently not formalized</p> <p>Peer learning occurs through mentoring on-site by experienced members. Members are encouraged to use their expertise when applicable.</p>
<p>Number of individual member coaching opportunities provided.</p>	<p>As needed ability to provide to all interested members at each site.</p> <p>Identify peer tutors at each site</p>
<p>Number of member leadership development opportunities provided. Locally developed and delivered trainings shared with national.</p> <p>If affiliate also selects a curriculum from the EC approved list, affiliate must provide additional training consistent with curriculum recommendations (provide training plan).</p>	<p>7 Lead Tutors will be utilized at each site to provide additional training</p> <p>Tempe provided materials to National Office to be included in National Toolkit.</p>

All members will attend at least 1 30-min team meeting/month.		Agree within scope of program needs.	Meeting to be conducted quarterly or on an as needed basis by Lead tutors. Program staff meet weekly with tutors on-site to communicate any changes, suggestions and or provide feedback.
Affiliate will conduct nationally provided member progress reviews 2x year.		Agree	2
All members complete annual member satisfaction surveys.		Agree Meet Standards	maintain
Affiliate will distribute and collect post-training surveys.		Agree Meet this requirement	maintain
Affiliate will provide opportunities for member appreciation/recognition. Describe.		Agree/ Tempe Program	Maintain
Fundraising, Marketing, and Communications Fundraising			
Projects will work with the national office to develop a fundraising plan to ensure local sustainability, consisting of diversified resources from government, private, and corporate sources.		Tempe program will provide current plan. Support is ne	
Marketing and Communications			
Affiliates will adhere to national mission and vision standards.		Agree	maintain
Projects must follow national brand standards and logo guidelines. (Provide local samples.)		Agree	maintain
Projects will work with the national office to develop a communication and marketing plan, targeting local general and education media outlets.		Tempe Program utilizes	Completed plan.
Advocacy, Policy, and School System Relationship Management School System Relationship Management			
Projects must create, maintain, and provide communication to the national office on in-person relationships with top-level (Superintendent, Chief Academic Officer, District Reading Specialist, Principals, etc.) LEA officials, including:		Tempe Project staff have and will continue to maintain close	Maintain
Number of office visits.		1	1
Number of site visits.		1	1
Number of invitational events.		1	1
Projects will proactively inform (and, as needed, engage with) top-level SEA officials (State Secretary of DOE, etc) of key Experience Corps messaging, including evidence-based research studies, opportunities to sign on to grant applications, and other opportunities as defined by the national office.		Tempe project has not reached out to SEA.. Will do so if permission is provided by City policy.	
Advocacy and Policy			

<p>Projects will report on all contacts with identified leaders (federal, state, local) and all potential, applied for and received government funds (federal, state, local).</p>	<p>Tempe Project will continue to inform and maintain close working relationship with National Office identifying opportunities locally. The expectation is that the National Office will pursue all appropriate requests for support, assistance with grant applications and corporate sponsorships.</p>	<p>Identify additional sources for funding through local and National efforts.</p>
<p>Projects will partner with national office to promote favorable federal legislation and rulemaking, including identification of program barriers and best practices that can be addressed through federal legislation.</p>	<p>Tempe Project has been supportive in the past and will</p>	
<p>Projects will identify, cultivate and report on relationships with top-level local political and civic leaders (Mayor, local legislators, school boards, influential religious leaders, etc.).</p>	<p>Due to local political constraints, Tempe program will c</p>	

To review recruitment plans and develop with staff input.																																				
	sample recruitment plans																																			

Will work with national Office staff to refine Tempe Plan. Acknowledged lim

Tempe program reaches out to 50+ , will target US residents for AmeriCorp:

Tempe program currently only uses National Office materials ie flyers, prog

Meet and or exceeds. Tempe program responds within two business days.

Meets

						2 Enlist School Language Arts specialists to include EC r
						3

Will select topics based on identified program and member needs.

						0
						0 Identify peer tutors at each site to provide additional ;
						7 Lead Tutor s will be utilized at each site to provide adc

						Tempe provided materials to National Office to be included in National Tool
						NA

					Tempe Project will continue to inform and maintain close working relations
continue to do so however may at times be limited due to local political considerations.					
operate within locally defined scope, rules and regulations.					Due to local political constraints, Tempe program will operate within locally

year end.

ool or per student. Action plan to initiate meeting to discuss nominal fee for service per school.

ace.

inations due to staff time/funding

s positions. Tempe program educational requirement is a minimum high school diploma. Tempe members must pass school district requirements and or city when on city payro

ram facts sheet brochures.

rence provided. Will agree to conduct one telephonic and one electronic reference check

ccs through fingerprinting. Only candidates clearly are eligible to volunteer with program. School district provides a list of those cleared for service

bers seeing a total of four students for 2 hours per day. Limitations on time are due to school scheduling, Tempe Elementary District and Kyrene District schedule reading blocks of 90 minutes. :

members in appropriate in-service trainings provided by school district

support for members.

ditional guidance and communication at each school site.

ikit

will utilize lead tutors to organize formal meetings quarterly or more often if needed.

Volunteers recognition. School sites also provide member appreciation events.

in sustainability.

ded by City policy.

hip with National Office identifying opportunities locally

y defined scope, rules and regulations.

Students are pulled out of the classroom for reading intervention ie tutoring during that time in most cases. Majority of Tempe members do not receive a stipend and commit to two days per w

week vs stipend who see two extra children and add an additional day to their schedule. Tempe program volunteers donate an average of six hours weekly with four hours in direct instruction a

nd two hours used for preparation, paperwork, research and consultation with school s:

Examples

Core Element	Baseline	Year 1 Target
National Growth Strategy Grade Selection Criteria		
Grades served (please differentiate between 1:1 and classroom assistance in total)	1:1, grades 2 & 3; in-class, n/a	Lay foundation to add 1:1 tutoring service to include 1st grade in fall 2011.

Service Delivery			
Dosage Levels			
One-on-One Tutoring:			
Minutes in tutoring session	30 (meets standard)	30	
Session per week	2 (meets standard)	2	
Total sessions per student	30	minimum 35	
Classroom Tutoring:			
Total Hours of instructional time per week per classroom	15 (exceeding standard)	15	
Project Support			
Financial Management			

<p>Affiliates will submit one-year Experience Corps project budgets including fundraising forecasts in an EC-provided template at the start of their fiscal year.</p>	<p>Have EC project budget in host agency format. Do not have fundraising forecasts as part of budget.</p>	<p>Submit EC project budget via EC national template. Integrate EC project fundraising forecast list with EC budget.</p>

Milestone 1 Action Plan	National Support Needed	Milestone 1 Assessment: (JAN)	Milestone 2 Action Plan	Year-End Assessment (MAY/JUNE)	Year-End Action Plan
<p>Potential Barriers: Space at School & Need more members. Plan: Explore with current schools the desire to expand service to 1st grade. Learn 1st grade reading benchmarks. Incorporate that into member training. Negotiate with schools how many 1st graders they will refer for tutoring. Brainstorm physical space options with schools. Review EC staffing plan to ensure it can support additional members (on-site, training). Orient principals and 1st grade teachers on EC 1:1 tutoring intervention. Recruit additional members for fall 2011 start. Raise funding to support additional members. Resources: Staffing-Proj Director, Trainer, Recruiter, Development staff; Funding-\$ dollar amount; Recruitment-15-20 members depending on service commitments.</p>					

n/a							
n/a							
<p>Potential Barriers: Getting students released from class & student mobility. Plan: Review Wash U findings with schools, emphasizing need for more sessions to achieve impact; revise MOU with schools to define minimum; revise teacher orientation training; Educate members about Wash U findings and need for more service. Resources: Staffing- Project Director, Site Coordinator, Trainer; Funding-\$ dollar amount; Recruitment- may require a larger service commitment per member (so may need more vol't), and/or maybe re-configure current members' placements.</p>							
n/a							

<p>Challenges: More staff time because of 2 formats. Plan: Request template from national. EC Project Director will work with financial and development host agency staff to translate budget into forecast in template. Resources: Staffing- Project Director, financial staff, development staff; Funding- \$ dollar amount; Recruitment-n/a.</p>					

Year 2 Goal	
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Staff Summary Report



Council Meeting Date: 9/2/2010

Agenda Item Number: _____

SUBJECT: This is the introduction and first public hearing to amend Chapter 16 of the Tempe City Code relating to License, Privilege And Excise Taxes by amending Section 16-405 to reflect the implementation of Proposition 401 passed by the voters of Tempe on May 18, 2010; establishing a two-tenths of a percent (0.2%) tax rate increase; and establishing an effective date. The second public hearing is scheduled for September 16, 2010.

DOCUMENT NAME: TCC CH 16 - LICENSES, TAXATION & MISC. BUS REGS, ETC. (0503-16) Ordinance No. 2010.33

COMMENTS: N/A

PREPARED BY: Phil Falcosky, Tax Audit Supervisor (480-350-8685)

REVIEWED BY: Cecilia Robles, Budget Manager (480-350-8881)

LEGAL REVIEW BY: Dave Park, Assistant City Attorney (480-350-8907)

DEPARTMENT REVIEW BY: Ken Jones, Finance and Technology Director (480-350-8504)

FISCAL NOTE: Staff anticipates that this transaction privilege (sales) and use tax rate increase will generate additional privilege tax revenues of approximately \$8 million annually.

RECOMMENDATION: Staff recommends adoption of Ordinance No. 2010.33

ADDITIONAL INFO: On May 18, 2010, the citizens of Tempe voted to increase the transaction privilege (sales) and use tax rate by two-tenths of a percent (0.2%), from one and eight tenths percent (1.8%) to two percent (2%). The rate increase applied to all taxable activities except contracting and mining, which are frozen by State statute, and sales of food for home consumption. Revenues generated are to be deposited to the General Fund to help fund operating expenses of the City. The rate increase applies to all revenues earned or received on or after July 1, 2010 and is to be terminated at the end of four years. Section 16-405 was inadvertently not included in the "Amendments to the City Tax Code of the City of Tempe, Arizona Implementing Proposition 401 Passed by the Voters of Tempe on May 18, 2010" adopted on June 24, 2010.

ORDINANCE NO. 2010.33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 16 OF THE TEMPE CITY CODE RELATING TO LICENSE, PRIVILEGE AND EXCISE TAXES BY AMENDING SECTION 16-405 TO REFLECT THE IMPLEMENTATION OF PROPOSITION 401 PASSED BY THE VOTERS OF TEMPE ON MAY 18, 2010; ESTABLISHING A TWO-TENTHS OF A PERCENT (0.2%) TAX RATE INCREASE; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Section 16-405 of the Tempe City Code is hereby amended to read as follows:

Sec. 16-405. Advertising.

(a) The tax rate shall be at an amount equal to ~~one and eight tenths percent (1.8%)~~ TWO PERCENT (2%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising". All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "local advertising", except the following:

- (1) The advertising of a product or service which is sold or provided both within and without the State by more than one "commonly designated business entity" within State, and in which the advertisement names either no "commonly designated business entity" within the State or more than one "commonly designated business entity". "Commonly designated business entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.
- (2) The advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.
- (3) The advertising of a product which may only be purchased from an out-of-state supplier.

- (4) Political advertising for United States Presidential and Vice-Presidential candidates only.
- (5) Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.
- (6) Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

(b) Reserved.

Section 2. The effective date to increase the privilege and use tax rate imposed by this Ordinance from one and eight-tenths percent (1.8%) to two percent (2%) shall apply to all revenues in the affected classifications earned or received, as applicable, on or after July 1, 2010, determined in accordance with the Taxpayer's accounting method for privilege tax purposes as elected by the Taxpayer and reflected in the City's records.

Section 3. The tax rate increase is to be terminated at the end of four (4) years.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2010.

MAYOR

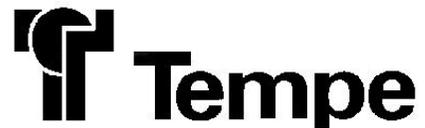
ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: This is the introduction and first public hearing to authorize the Mayor to execute a Ground Lease and Agreement between the City and Clay and Chelsea Scott (dba Papago Ranch), and related documents, covering approximately 10 acres of real property owned by the City north of the Marina and Red Mountain Freeway. The second public hearing is scheduled for September 16, 2010.

DOCUMENT NAME: 20100819cdnr01 RIO SALADO MASTER PLAN (112-07-03) Ordinance No. 2010.32.

COMMENTS: The lease allows for the construction and operation of stable facilities providing trail rides, riding lessons and camps, equine care classes and special events on approximately 10 acres of city property.

PREPARED BY: Nancy Ryan, Community Development, Rio Salado Manager, 350-8096

REVIEWED BY: Lisa Collins, Deputy Community Development, Planning Manager, 350-8989
Steve Abrahamson, Community Development, Principal Planner, 350-8359

LEGAL REVIEW BY: Cynthia McCoy, Assistant City Attorney, 350-2187

DEPARTMENT REVIEW BY: Chris Anaradian, Community Development Director, 858-2204

FISCAL NOTE: Rent includes the value of construction of certain improvements; \$600 per year; plus \$5 per month per boarded horse. The lease is expected to generate \$3,000 in new revenues during the first year of operation

RECOMMENDATION: Adopt Ordinance No. 2010.32.

ADDITIONAL INFO: The lease is for ten years with two (2) five-year renewal periods. The stables development will take place in two phases.

ORDINANCE NO. 2010.32

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE A GROUND LEASE AND AGREEMENT AND RELATED DOCUMENTS PERTAINING TO APPROXIMATELY 10 ACRES OF CITY-OWNED LAND NORTH OF THE MARINA AND RED MOUNTAIN FREEWAY.

WHEREAS, the City owns the land more particularly described on Exhibit A hereto (the "Property"), which is adjacent to the current location of Papago Ranch, a horse boarding and trail ride business operated by Clay and Chelsea Scott (the "Tenant"); and

WHEREAS, the Lease will provide for relocation of the existing business and continued operation by the Tenant of the historic trail rides within Papago Park, enabling the continuance of a recreational amenity within the City; and

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

Section 1: That the Mayor is authorized to execute a Lease with the Tenant, a Memorandum of Lease and all other documents reasonably required to carry out the provisions of this Ordinance.

Section 2: Pursuant to City Charter, Section 2.12, this ordinance will be effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2010.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit A
Leased Premises

That portion of the Northeast Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, in Maricopa County, lying north of the northern right-of-way line for the Red Mountain-Loop 202 Freeway; and

The east 330 feet of the Northwest Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, in Maricopa County, lying north of the northern right-of-way line for the Red Mountain-Loop 202 Freeway;

Except that portion of the Northeast Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, in Maricopa County as described in the non-exclusive Salt River Project Agricultural Improvement District License No. 02402-0, dated November 1, 2006, (known as the Indian Bend Pump Ditch.)

GROUND LEASE AND AGREEMENT

This Ground Lease and Agreement is made and entered into this _____ of October, 2010, between the City of Tempe ("Landlord" or "City"), a municipal corporation, and Clay and Chelsea Scott, husband and wife, doing business as "Papago Ranch" ("Tenant").

RECITALS

A. Landlord owns the land described in **Exhibit A** hereto, together with all rights and privileges appurtenant thereto and all future additions thereto or alterations thereof (collectively, the "Leased Premises").

B. Tenant desires to lease the Leased Premises from Landlord for purposes of constructing and operating stables and related facilities for training and riding horses, together with related ancillary uses for the enhancement of the community and the promotion of the health, education and welfare of the residents of the City.

C. Subject to satisfaction of the conditions described therein, Landlord agrees to lease to Tenant, and the Tenant agrees to lease from Landlord, the Leased Premises, on the terms and conditions stated herein.

AGREEMENT

NOW THEREFORE, the parties hereby agree as follows:

1. CONSTRUCTION OF FACILITIES.

A. Plans. Tenant shall diligently undertake to construct those improvements described on **Exhibit B** hereto (the "Facility"). At all times during the term of this Lease, Tenant shall conduct its operations in accordance with the limitations stated in this Agreement, including without limitation, those set forth on **Exhibit B** hereto.

B. Construction. Within three (3) months after execution of this Lease, Tenant shall, at its own expense, commence construction of the Facility, together with all on-site and off-site improvements required for proper operation of the Facility. Prior to commencement of construction, Tenant shall furnish to Landlord reasonably satisfactory evidence that Tenant has available sufficient funds or firm lending/financing commitments to complete the construction. Such evidence may include, by way of example, a letter from Tenant's bank stating that sufficient monies will be available to complete the project, or a performance bond, in an amount equal to the total estimated construction cost, supplied by Tenant's contractor or subcontractor.

All construction shall be performed pursuant to, and consistent with, all applicable state and local laws and regulation. Tenant shall address or obtain all of the conditions specified in **Exhibit D** hereto. In addition to any other access rights granted to Landlord in this Lease, Landlord shall have the right to enter the Leased Premises during construction to verify compliance with all applicable laws and the provisions of this Lease. Tenant shall provide security for the construction site at its own expense, and shall be responsible for any vandalism, theft or criminal damage during construction. Tenant agrees to use its best efforts to complete

the Facility within 12 months after execution of this Lease, or in accordance with such other schedule as Landlord and Tenant may agree in writing.

C. Parking. The Leased Premises shall include access to adjacent parking facilities at the Tempe Town Lake Marina, owned by Landlord, and Landlord and Tenant shall enter into a shared parking agreement within 90 days after execution of this Lease in which Landlord shall grant Tenant a non-exclusive license to use such parking facilities during the term of this Lease.

2. LEASED PREMISES.

The Leased Premises consist of the real property described on **Exhibit A** attached hereto and incorporated herein by reference, and references herein to the Leased Premises shall include the Facility and all improvements to the real property constructed pursuant to this Lease, whether or not Landlord has obtained title to the Facility and other improvements. Notwithstanding the foregoing, Tenant shall limit its operations to those areas designated on **Exhibit B**.

3. TERM.

The term of this Lease shall be for a period of ten (10) years, commencing on the date of execution hereof and ending on _____, 2020. If Tenant is not in monetary default hereunder and has performed its other obligations under this Lease to Landlord's reasonable satisfaction, Tenant shall have an option to renew this Lease for two additional terms of five (5) years each or such longer period as Landlord and Tenant may agree is then appropriate, exercisable by giving Landlord written notice not less than 180 days prior to the expiration date of the then current term.

The rent during the renewal term shall be subject to mutual agreement by Landlord and Tenant; provided that if after negotiating in good faith the parties are unable to reach agreement within thirty (30) days, the determination of the rate shall be submitted to binding mediation in accordance with Section ____ hereof.

4. CONSIDERATION FOR LEASE.

A. Base Rent. Tenant shall pay to Landlord as base rent the sum of Six Hundred Dollars (\$600.00) per year plus applicable transaction privilege and real property excise taxes. The first payment shall be payable in advance on the first day of the term of this Lease, and subsequent payments shall be payable in advance on the same day of each consecutive year thereafter during the term of this Lease. The base rent shall be paid without notice, demand, deduction or any set-off whatsoever.

B. Percentage Rent. In addition to the Base Rent, Tenant shall pay to Landlord for each year during the term, percentage rent equal to \$5 per month multiplied by the number of horses boarded at the Facility during that month. Percentage Rent shall be payable quarterly in arrears, within fifteen (15) days following the end of each calendar quarter during the term hereof. Each payment shall be accompanied by an accurate, unaudited, written statement certified by Tenant or on its behalf by a duly authorized officer, showing the full amount of Tenant's revenues from the Leased Premises during such quarter and a copy of all State and local sales and use tax reports filed by Tenant at the time these reports are filed with the appropriate

agencies.

Tenant shall keep at all times during the term hereof, at the Leased Premises or at the general office of the Tenant, full, complete and accurate books of account and records in accordance with accepted accounting practices with respect to all operations of the business to be conducted in or from the Leased Premises including the recording of horses boarded, and shall retain such books and records, as well as all contracts, vouchers, checks, inventory records, and other documents and papers in any way relating to the operation of such business, for at least three (3) years from the end of the Lease Year to which they are applicable, or if any audit is required or a controversy should arise between the parties hereto regarding the rent payable hereunder, until such audit or controversy is terminated.

Such books and records, including all withholding, unemployment, sales and income tax reports prepared and filed by Tenant or on Tenant's behalf shall at all reasonable times during the retention period referred to above be open to the inspection of Landlord or its duly authorized representatives, who shall have full and free access to the same as may be necessary for a proper examination thereof. Upon Landlord's written request, Tenant shall provide and make available all such records at the Leased Premises. All records furnished to Landlord shall be confidential. Landlord, at its discretion, may cause and audit of Tenant's books and records and, if such audit shall indicate a discrepancy in excess of 2% of the percentage rent reported, then Tenant shall pay the cost of such audit, and such additional percentage rental shall be due and payable within ten (10) days of written notification to Tenant, while any discrepancy in Tenant's favor shall be remitted by Landlord to Tenant within thirty (30) days of such audit.

At the same time as, and in addition to, each payment of rent, Tenant shall pay to Landlord all privilege, excise and sales taxes levied or assessed against, or measured by, all amounts construed by any governmental agency as rent payable under this lease.

5. USE OF PREMISES.

A. Tenant shall use the Leased Premises only for the purpose of operating the Facility, boarding horses, and related activities, and in accordance with those limitations stated in **Exhibit B**. All operations and activities on the Leased Premises shall comply with applicable laws. The Leased Premises shall not be used for any purposes in violation of any zoning or other laws or of any regulation of any governmental body having jurisdiction over the Leased Premises. Tenant shall not discriminate against any individual in any way on account of such individual's race, color, religion, sex, age, handicap, national origin, or sexual orientation. The Leased Premises shall not be used for any regularly organized/scheduled activity having, as its primary purpose, religious instruction.

B. Tenant shall operate the Facility in a manner consistent with good business practices generally applicable to similar facilities. Tenant shall at all times maintain minimum staffing levels adequate for operating and supervising the Facility, and shall take any extra precautions necessary to ensure the safety and well-being of children and youth using the Facility.

6. UTILITIES.

A. Tenant shall be responsible for constructing all utility connections (such as sewer, power, water, etc.) required for proper operation of the Facility, and shall pay the cost of all utilities associated with operating the Leased Premises and the Facility, including without limitation, water, sewer, refuse collection, electric, gas, and telephone. Tenant shall obtain separate metering for all such utility charges and shall, at its own expense, see that such separate meters are installed on the Leased Premises. Tenant shall keep the Leased Premises free of any liens created by the Tenant's failure to make such utility payments.

If Tenant desires to expand the Facility beyond that described on **Exhibit B**, and to construct additional improvements on the Property, Tenant shall submit a written request for Landlord's approval in accordance with Section 12 hereof, accompanied by a description of the additional improvements Tenant desires to construct. If Landlord consents to allow Tenant to move forward with such improvements, Landlord and Tenant may enter into a development agreement to govern the construction of such improvements, and the deferral, to the extent allowed by applicable law, of development fees associated with construction of such improvements (including, without limitation sewer and water fees). Nothing in this Lease or this section in particular is intended to obligate Landlord to approve any such additional improvements or to agree to any deferral of development fees unless and until such agreement is reduced to a writing signed by both parties, and approved by the Tempe City Council.

B. Landlord Nonresponsibility. Landlord shall have no responsibility, obligation or liability under this Lease whatsoever with respect to any of the following:

- (a) utilities, including gas, heat, water, light, power, telephone, sewage, and any other utilities supplied to the Leased Premises;
- (b) disruption in the supply of services or utilities to the Leased Premises;
- (c) maintenance, repair or restoration of the Leased Premises;
- (d) any other cost, expense, duty, obligation, service or function related to the Leased Premises.

C. Tenant's Responsibility. Tenant shall have the responsibility, obligation, and liability for any and all expenses set forth in this **Section 6**. In addition, Tenant shall pay upon demand by Landlord, all charges related to any improvement district liens together with any interest or late charges connected therewith which exist against the Leased Premises or which are imposed upon the Leased Premises during the existence of this Lease. If, during the term of this Lease, Landlord is required to pay any costs or expenses in connection with the ownership of the Leased Premises, Tenant shall indemnify, hold harmless, and immediately reimburse Landlord for any costs or expenses.

7. INDEMNIFICATION.

Tenant shall indemnify and hold Landlord, its officers, directors, employees, and representatives harmless from and against any and all actions, claims, demands, judgments, reasonable attorneys' fees, costs, damages to persons or property, penalties, obligations, expenses or liabilities of any kind that may be asserted against Landlord arising from any use,

nonuse, or condition of the Leased Premises created by or attributable to Tenant or its employees, customers, agents, invitees, licensees, or guests unless due to Landlord's gross negligence or intentional misconduct. If any action or proceeding shall be brought against Landlord by reason of any claim referred to in this Paragraph, Tenant, upon written notice from Landlord, shall at Tenant's sole cost and expense, resist or defend the same through counsel selected by Tenant and reasonably approved by Landlord.

8. INSURANCE

A. Tenant shall not take possession of the Leased Premises or commence construction activities until Tenant has obtained all of the insurance required herein from a company or companies licensed to do business in the State of Arizona, and acceptable to Landlord, not to be unreasonably withheld or delayed, and Tenant shall continue to maintain all such insurance in full force and effect from the commencement construction activities until termination or expiration or termination of this Lease.

B. Tenant shall obtain and maintain the insurance coverage specified in **Exhibit C** attached hereto and incorporated herein; provided that Tenant need not obtain Worker's Compensation coverage until the first day that Tenant has engaged any person as an employee, and need not obtain Fire and Casualty Coverage until Tenant has completed construction of the Facility.

C. On or prior to the Commencement Date, Tenant shall furnish Landlord with original certificates (or certified copies) of the aforementioned insurance policies, in form and with insurers acceptable to the City's Risk Manager (or designee). Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, and/or cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City's Risk Manager.

D. Tenant shall include all contractors and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. All insurance coverage for contractors and subcontractors shall be subject to all of the requirements stated herein for Tenant.

9. FIRE AND OTHER CASUALTY.

A. Obligation to Rebuild. If some or all of the Leased Premises (including the Facility and any other improvements) are damaged or destroyed, partially or totally from any cause whatsoever, whether or not such damage or destruction is covered by insurance, then Tenant shall repair, restore and rebuild the Leased Premises to its condition existing immediately prior to such damage or destruction and this Lease shall remain in full force and effect. Such repair, restoration and rebuilding (all of which are herein called "repair") shall be commenced within a reasonable time after such damage or destruction has occurred and shall be diligently pursued to completion.

B. Insurance Proceeds. The proceeds of any insurance maintained under this Lease shall be made available to Tenant for payment of costs and expense of repair, provided however, that such proceeds may be made available to Tenant subject to reasonable

conditions, including, but not limited to contractor's certification of cost, retention of a percentage of such proceeds pending, recordation of a notice of completion and a lien and completion bond to insure against mechanic's or materialmen's liens, all at the expense of Tenant. If the insurance proceeds are insufficient to cover the cost of repair, then any amounts required over the amount of the insurance proceeds received that are required to complete said repair shall be paid by Tenant. If the insurance proceeds are not made available to Tenant within 120 days after such damage or destruction, unless the amount of insurance coverage is in dispute with the insurance carrier, Tenant shall have the option for 30 days, commencing on the expiration of such 120-day period, to cancel this Lease. If Tenant exercises such option, Tenant shall have no further obligation hereunder and shall have no claim against Landlord. To exercise said option, Tenant shall give written notice to Landlord within said 30-day period, time being of the essence.

C. Damage Near End of Term. If the Leased Premises are partially destroyed or damaged during the last six months of the term of this Lease, Landlord may at its option, cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant within 30 days after the date of occurrence of such damage.

D. Abatement of Rent. Notwithstanding the partial or total destruction of the Leased Premises and any part thereof, and notwithstanding whether the casualty is insured or not, there shall be no abatement of rent or of any other obligation of Tenant hereunder by reason of such damage or destruction unless the Lease is terminated by virtue of other express terms of this Lease.

E. Termination - Advance Payments. Upon termination of this Lease pursuant to this Section 8, an equitable adjustment shall be made concerning advance rent and any advance payments made by Tenant to Landlord.

F. Waiver. Tenant waives any provision of Arizona Revised Statutes which relate to termination of leases when the thing leased is destroyed and agrees that such event shall be governed by the terms of this Lease.

10. LIENS.

Tenant shall not permit any liens to be placed on Leased Premises, but if the Leased Premises or any part thereof, or Tenant's leasehold interest therein, shall at any time during the term of this Lease become subject to any vendor's, mechanic's, laborer's, or materialmen's lien based upon the furnishing of material or labor to Tenant, Tenant shall cause the same, at Tenant's expense, to be discharged or bonded over within forty-five (45) days after notice thereof.

11. MAINTENANCE AND REPAIRS.

Tenant shall at all times, at its sole cost and expense, keep and maintain in good condition and in substantial repair the Leased Premises, including the Facility and all other improvements of any kind erected, installed or made on or within the Leased Premises and including landscaping. Tenant shall at all times in the maintenance and use of the Leased Premises and the

buildings, structures, facilities, improvements and equipment thereon, comply with all laws, ordinances and regulations pertaining thereto, and all conditions and restrictions set forth herein.

12. IMPROVEMENTS.

Other than the Facility, Tenant shall not make any material alteration, improvement, addition or other installation at the Leased Premises without Landlord's prior written consent. If Tenant desires to make any such material alteration, improvement, addition or utility installation, Tenant shall submit a written request to Landlord, together with plans of the proposed alteration, improvement, addition or installation, and Tenant shall not commence such work unless and until the Landlord has granted its approval thereto in writing, which approval shall not be unreasonably withheld or delayed. Landlord may require that the work will be completed free and clear of liens and in a manner satisfactory to Landlord. Any alteration or improvement made by Tenant shall be completed expeditiously, subject to any delays beyond the control of Tenant, and in compliance with all laws and ordinances and all rules and regulations of any and all governmental authorities having jurisdiction of or over the Leased Premises.

13. NUISANCE.

Notwithstanding anything in this Lease to the contrary, Tenant shall not commit or permit any nuisance or other act, whether noise, odor, smoke, sewage, chemical wastes, or otherwise, which may disturb the quiet enjoyment of any owners of property in the area except those inherent in the nature of Tenant's business activity (i.e., boarding horses). Tenant shall not obstruct or cause to be obstructed any public or private roadways.

14. ASSIGNMENT.

A. Assignment, Subletting Prohibited. Tenant covenants not to assign this Lease nor to sublet the Leased Premises or any portion thereof, without the prior written consent of Landlord. No such assignment or subletting nor any written consent of Landlord to such assignment or subletting shall release or discharge Tenant from liability for full and complete performance of its obligation under this Lease, Landlord agrees not to unreasonably withhold or delay its consent to any partial sublease that is consistent with the approved operating plans for the Facility; however Landlord reserves the right to withhold its consent to any assignment or sublease of all or substantially all of the Leased Premises for any reason or for no reason, and to review all financial consideration being exchanged in connection therewith.

B. Actions Constituting Assignment. If Tenant is a partnership, corporation, limited liability company or other legal entity, each of the following (voluntary, involuntary, by operation of law, or otherwise) shall constitute a prohibited assignment: (a) any change in the persons who are the owners or managers of Tenant, including without limitation any change between or among the persons who are the owners as of the date of this Lease, (b) any change in the persons who are the owners of the members and managers of Tenant, including without limitation any change between or among such persons, (c) any merger or consolidation of Tenant (whether in one transaction or in a series of transactions) with or into any other entity; (d) any sale, lease, transfer or other disposition of 20% or more of Tenant's assets (in one or a series of transactions); (e) any reorganization, dissolution or liquidation of Tenant; and (f) any pledge, hypothecation or encumbrance of any interest in Tenant.

15. MORTGAGE OF LEASED PREMISES.

Tenant shall not without the Landlord's prior written consent create a security interest in Tenant's leasehold interest under this Lease (or in any subleases and the rents, income and profits therefrom) by mortgage, deed of trust, collateral assignment or otherwise. Any such security interest shall be referred to herein as a "Leasehold Mortgage," and the holder of a Leasehold Mortgage shall be referred to herein as a "Leasehold Mortgagee."

No liability for the performance of Tenant's covenants and agreements hereunder shall attach to or be imposed upon any Leasehold Mortgagee, unless such Leasehold Mortgagee forecloses its interest and becomes the Tenant hereunder, following which the liability shall attach only during the term of ownership of the leasehold estate by said Leasehold Mortgagee.

16. Taxes; Ground Lease Obligations.

A. Excise Tax. The Landlord and Tenant intend that the Leased Premises shall be subject to the government property lease excise tax rate pursuant to the provisions of A.R.S. § 42-6201-42-6209. In connection therewith, Landlord and Tenant shall cooperate with each other to cause to be prepared, executed and delivered such documents and instruments, and to process such applications and other materials, as may be necessary in order to effect the application of the government property lease excise tax as contemplated pursuant to the terms of the Development Agreement. The Landlord shall cooperate with the Tenant in connection with ensuring the application of the government property lease excise tax to the Leased Premises and in connection with any protest or appeal made by Tenant as hereinafter contemplated.

B. Payment. Tenant shall pay and discharge all general and special real estate and/or personal property taxes and assessments levied or assessed against or with respect to the Facility and the Leased Premises during the term hereof and all charges, assessments or other fees payable with respect to or arising out of the ground lease and all recorded deed restrictions affecting or relating to the Leased Premises. Any sales, use, excise or transaction privilege tax consequence incurred by Landlord because of this Lease or in relation to the Leased Premises or improvements included therein may be passed on to the Tenant either directly if applicable or as "additional rent."

C. Protest. Tenant may, at its own cost and expense protest and contest, by legal proceedings or otherwise, the validity or amount of any such tax or assessment herein agreed to be paid by Tenant and shall first pay said tax or assessment under protest if legally required as a condition to such protest and contest, and the Tenant shall not in the event of and during the bona fide prosecution of such protest or proceedings be considered as in default with respect to the payment of such taxes or assessments in accordance with the terms of this Lease.

D. Procedure. Landlord agrees that any proceedings contesting the amount or validity of taxes or assessments levied against the Leased Premises or against the rentals payable hereunder may be filed or instituted in the name of Landlord or Tenant, as the case may require or permit, and the Landlord does hereby appoint the Tenant as its agent and attorney-in-fact, during the term of this Lease, to execute and deliver in the name of the

Landlord any document, instrument or pleading as may be reasonably necessary or required in order to carry on any contest, protest or proceeding contemplated in this section. Tenant shall hold the Landlord harmless from any liability, damage or expense incurred or suffered in connection with such proceedings.

E. Allocation. All payments contemplated by this Section 6 shall be prorated for partial years at the commencement date and at the end of the Lease term.

17. CONDEMNATION.

A. If the whole of the premises shall be taken or condemned under the right of eminent domain or if such a substantial part of the premises shall be taken as shall result in the portion remaining being unsuitable for the permitted uses, then this Lease shall terminate as of the date upon which title shall vest in such condemning authority; and the net awards or payments on account of such taking shall be apportioned as follows:

(a) Tenant shall receive that portion attributed to the then value of Tenant's interest in the buildings and improvements constructed by the Tenant.

(b) Landlord shall receive that portion attributed to the then value of the land.

B. If only a part of the Leased Premises shall be so taken or condemned and the part not so taken can be adapted for the permitted uses, this Lease shall remain in full force and effect without any abatement or reduction in rent, and Tenant, whether or not its portion of the awards or payments, if any, on account of such taking shall be sufficient for the purpose, at its own expense shall promptly commence and complete the restoration of the buildings and improvements on the Leased Premises as nearly as possible to their value, condition and character immediately prior to such taking or condemnation. Tenant shall be entitled to apply for and receive an award for fixtures or equipment installed on the Leased Premises by Tenant and for moving expenses and other business losses or costs incurred by Tenant.

C. In the event of any such taking or condemnation in whole or in part, the entire award shall be paid to Landlord in trust for disbursement as herein provided, and Tenant hereby assigns to Landlord the right to receive such award or awards in trust. Tenant shall be entitled to apply for and receive an award for fixtures or equipment installed on the Leased Premises by Tenant and for moving expenses and other business losses or costs incurred by Tenant.

D. In the event of a partial taking which shall not result in termination of this Lease, that portion of the net awards or payments attributed to the then value of the buildings and improvements on the premises shall be applied to pay the cost of restoration of such buildings and improvements. The balance of such portion, if any, remaining after completion of such restoration, as well as that portion of the net awards or payments attributed to the then value of the land, shall be paid over to Landlord. Tenant shall be entitled to apply for and receive an award for fixtures or equipment installed on the Leased Premises by Tenant and for moving expenses and other business losses or costs incurred by Tenant.

E. If the award or payments on account of any taking shall not be divided or apportioned by the court or the condemning authority into the portions set forth in Section A, and

if Landlord and Tenant shall be unable to agree on such apportionment, then such apportionment shall be determined by appraisers. Landlord and Tenant shall each appoint an appraiser, and the two appraisers so appointed shall promptly appoint a third appraiser. The three appraisers shall jointly determine the appropriate apportionment and shall render their decision within thirty (30) days after the appointment of the third appraiser. The appraisal agreed upon by a majority shall be binding upon the parties. All appraisers shall be members of the American Institute of Real Estate Appraisers or, if such Institute shall not then exist, members of its successor organization or an organization of substantially equivalent stature. The fees of the appraisers shall be borne equally by Landlord and Tenant.

18. QUIET ENJOYMENT.

Landlord covenants that, so long as Tenant shall faithfully perform the agreements and terms of this Lease, Tenant shall and may peaceably and quietly have, hold and exclusively enjoy the Leased Premises for the term hereby granted along with any extensions as provided hereunder.

19. TITLE TO BUILDINGS AND IMPROVEMENTS.

Title to the Facility and other improvements constructed by Tenant, and all renewals and replacements thereof, when made, erected, constructed, installed or placed upon the premises by Tenant, shall be and remain in Tenant until the expiration of the term of this Lease. At the termination of this Lease, by expiration or otherwise, and if Tenant is not in default, Tenant shall have the right to remove from the Leased Premises all improvements belonging to and installed by Tenant and which can be removed without material damage to the Property. Tenant shall repair and replace at Tenant's expense any portion of the premises which may be damaged by the removal of such appliances, fixtures and equipment so as to leave the Leased Premises in good condition and repair, reasonable wear and tear excepted. In no event shall Tenant have the right to remove any additions or improvements to the Leased Premises not regarded as personal property.

20. EASEMENTS.

Landlord reserves the right to ingress and egress on the Leased Premises for the placement of easements for public utility or roadway purposes, as may from time to time be needed by Landlord, provided however, that Landlord shall conduct all of its maintenance and construction operations in a manner which will not unreasonably interfere with the conduct of the activities of the Tenant or the use and enjoyment of the Leased Premises by the Tenant.

21. DEFAULT.

A. Default. The occurrence of any one or more of the following events and the continuance of such event beyond any applicable Grace Period, shall constitute a Default on the part of Tenant:

(a) Tenant fails to pay Rent or any other sum required to be paid by Tenant hereunder; or

(b) Tenant fails to perform any covenant, condition, or agreement to be performed by Tenant pursuant to this Lease or breaches any representation or warranty made by Tenant in this Lease or otherwise in connection with the transaction of which this Lease is a part; or

(c) Tenant abandons or evidences an intention to abandon the Premises, including without limitation the failure to commence reconstruction of the Facility within a reasonable time after a casualty; or

(d) Garnishment, attachment, levy or execution is issued against any of Tenant's property or effects; or

(e) A receiver, custodian or other similar officer is appointed to or does take charge of any part of the property of, or wind up the affairs of Tenant; or

(f) Any petition or application for a custodian or for any form of relief under any provision of federal, state or local law pertaining to reorganization, insolvency or readjustment of debts is filed by or against Tenant and it is not discharged within 30 days; or

(g) Tenant makes an assignment for the benefit of creditors, is not paying debts as they become due, or is granted an order for relief under any provision of federal, state or local law pertaining to reorganization, insolvency or readjustment of debts; or

(h) Tenant is dissolved, liquidated or its existence is terminated voluntarily or by operation of law.

B. Grace Periods. "Grace Period" means the number of calendar days after Landlord gives notice in accordance with Section 29. If a Default involves Tenant's obligation to pay money, the applicable Grace Period shall be 10 days. If a Default involves the performance or non-performance of an act, or the occurrence or non-occurrence of an event or circumstance, the Grace Period shall be 30 days; provided that if the nature of the Default is such that it cannot reasonably be cured within 30 days, then no Default shall exist if Tenant commences the cure within 30 days and diligently pursues the same to completion within 90 days or such longer period as Landlord may agree in its unfettered discretion. Notwithstanding the foregoing, there shall be no Grace Period applicable to a Default based upon a breach of a representation or warranty of Tenant, or in the breach of Tenant's covenant to maintain insurance.

C. Landlord's Remedies. Landlord shall have the following remedies upon Tenant's default, which remedies shall not be exclusive, and are cumulative in addition to any remedies now or later allowed by law:

(a) Landlord may cure the default at Tenant's expense. The cost of such cure shall be deemed Rent and shall be payable by Tenant upon demand by Landlord.

(b) Landlord may continue this Lease in full force and effect, and this Lease will continue in effect so long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. Tenant shall on demand peaceably surrender possession of the Leased Premises to Landlord. While Tenant is in Default, Landlord,

in its own name or in the name of Tenant, may (to the extent allowable by law) operate and maintain all or any part of the Leased Premises (including the Facility) to such extent as Landlord deems advisable, and may rent and lease the same to such persons, for such periods of time, and on such terms and conditions as Landlord in its sole discretion may determine. In such event, Landlord shall not be subject to any liability, charge, or obligation therefor to Tenant, other than for willful misconduct, and shall be entitled to operate any business then (to the extent allowable by law) being conducted or which could be conducted thereon or therewith at the expense of and for the account of Tenant (and all net losses, costs and expenses thereby incurred shall be advances governed by Section 18(a)), to the same extent as the owner thereof could do, and to apply the proceeds to the costs and expenses of such operation, including amount payable as rent hereunder. No act by Landlord allowed by this paragraph shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease.

(c) Landlord may terminate Tenant's right to possession of the Leased Premises at any time. Landlord may immediately reenter the Premises and distraint for Rent due and remove any property of Tenant or others remaining at the Premises, without liability or obligation of any kind to Tenant or any other person, without prior notice and without releasing Tenant from any of its obligations under this Lease. Landlord shall be entitled to recover from Tenant all damages incurred by reason of Tenant's Default, including but not limited to, (i) the cost of recovering possession of the Premises, (ii) expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney's fees and any real estate commission paid to obtain the new Tenant, (iii) the worth (discounted by 6% per annum) at the time of the award by a court of competent jurisdiction of the amount by which the unpaid Rent for the balance of the Lease Term after the time of such award exceeds the amount of such rental loss for the same period that Tenant proves could reasonably have been avoided, and (iv) that portion of any broker's commission paid by Landlord in connection with this Lease applicable to the unexpired term of this Lease. No act by Landlord other than giving notice to Tenant shall terminate this Lease.

(d) Landlord shall be entitled to recover from Tenant all of Landlord's expenses, costs and damages arising out of any Default, including, but not limited to, advertising, brokerage fees, cleanup, repair, alterations, refurbishing, custodial and security expenses, bookkeeping and accounting costs, legal expenses (whether or not suit is brought), and costs and expenses of litigation.

(e) Landlord may also exercise any other rights Landlord may have at law or in equity. Landlord may exercise any remedy without court action, or by one or more court actions, and in exercising any remedy may obtain partial relief without waiving its right to further relief. The exercise of any remedy by Landlord shall not waive Landlord's right to exercise any other remedy.

(f) Except as otherwise provided herein, Landlord shall also be entitled to collect interest on any unpaid sums due from the date due or the date advanced until paid at the Default Rate.

(g) If Landlord relets the Premises but elects not to terminate Tenant's right to possession of the Premises, the rents received from the reletting shall be applied first to the payment of such expenses as Landlord may have incurred in recovering possession of the

Premises and in reletting the Premises, second, to the payment of any costs and expenses incurred by Landlord either for making necessary repairs to the Premises or in curing any default on the part of Tenant in any covenant or condition made by Tenant, and, last, any remaining amounts to be paid by Tenant to Landlord pursuant to this Lease shall be applied toward the payment of all amounts to be paid by Tenant to Landlord pursuant to this Lease, with interest at the highest legal rate, and operating expenses incurred by Landlord, and Tenant expressly agrees to pay Landlord upon demand any deficiency then remaining.

22. INTEGRATION AND CONSTRUCTION.

This Lease represents the entire understanding of Landlord and Tenant as to those matters contained herein, and no prior oral or written understanding shall be of any force or effect with respect to those matters covered thereby. This Lease shall be governed by the laws of the State of Arizona and construed as if drafted by both Landlord and Tenant. This Lease is the product of an arms-length negotiation, and should not be presumably construed against either party.

23. AMENDMENT.

Any changes to this Lease must be approved by the Tempe City Council and the Tenant or its designee, unless said changes are to clarify and explain portions of this Lease and which will not affect the basic structure thereof. Any amendment hereto shall be in writing.

24. ATTORNEYS' FEES.

In the event that either party brings legal action to enforce any terms of this Lease, the prevailing party in said litigation shall be entitled to attorneys' fees in a reasonable amount.

25. TIME OF ESSENCE.

Time shall be of the essence in the performance of every term, covenant, and condition of this Lease.

26. HEADINGS.

The Paragraph Headings contained herein are inserted only for convenience of reference and are in no way to be construed as a part of this Lease or as a limitation of the scope of the particular paragraph to which they refer.

27. BENEFIT.

This Lease shall insure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrator, legal representatives, successors, and assigns.

28. RIGHT OF ENTRY.

Landlord or any of its agents shall have the right upon reasonable notice to enter upon the Leased Premises at any time during the term of this Lease to examine same for any purpose whatsoever.

29. NOTICES.

Notices as provided by this Lease shall be sent to the respective parties at the addresses set forth below.

Landlord: City of Tempe
City Manager's Office
31 East 5th Street
Tempe, AZ 85281

With a copy to: City of Tempe
City Attorney's Office
21 East Sixth Street, Suite 201
Tempe, AZ 85281

Tenant: Clay and Chelsea Scott
1343 E. Jade Dr
Chandler, AZ 85286

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

Landlord:

CITY OF TEMPE, a municipal corporation

By: _____
Hugh L. Hallman, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Tenant:

By: _____
Title: _____

Exhibit A
Leased Premises

That portion of the Northeast Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, in Maricopa County, lying north of the northern right-of-way line for the Red Mountain-Loop 202 Freeway; and

The east 330 feet of the Northwest Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, in Maricopa County, lying north of the northern right-of-way line for the Red Mountain-Loop 202 Freeway;

Except that portion of the Northeast Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, in Maricopa County as described in the non-exclusive Salt River Project Agricultural Improvement District License No. 02402-0, dated November 1, 2006, (known as the Indian Bend Pump Ditch.)

Exhibit A-1

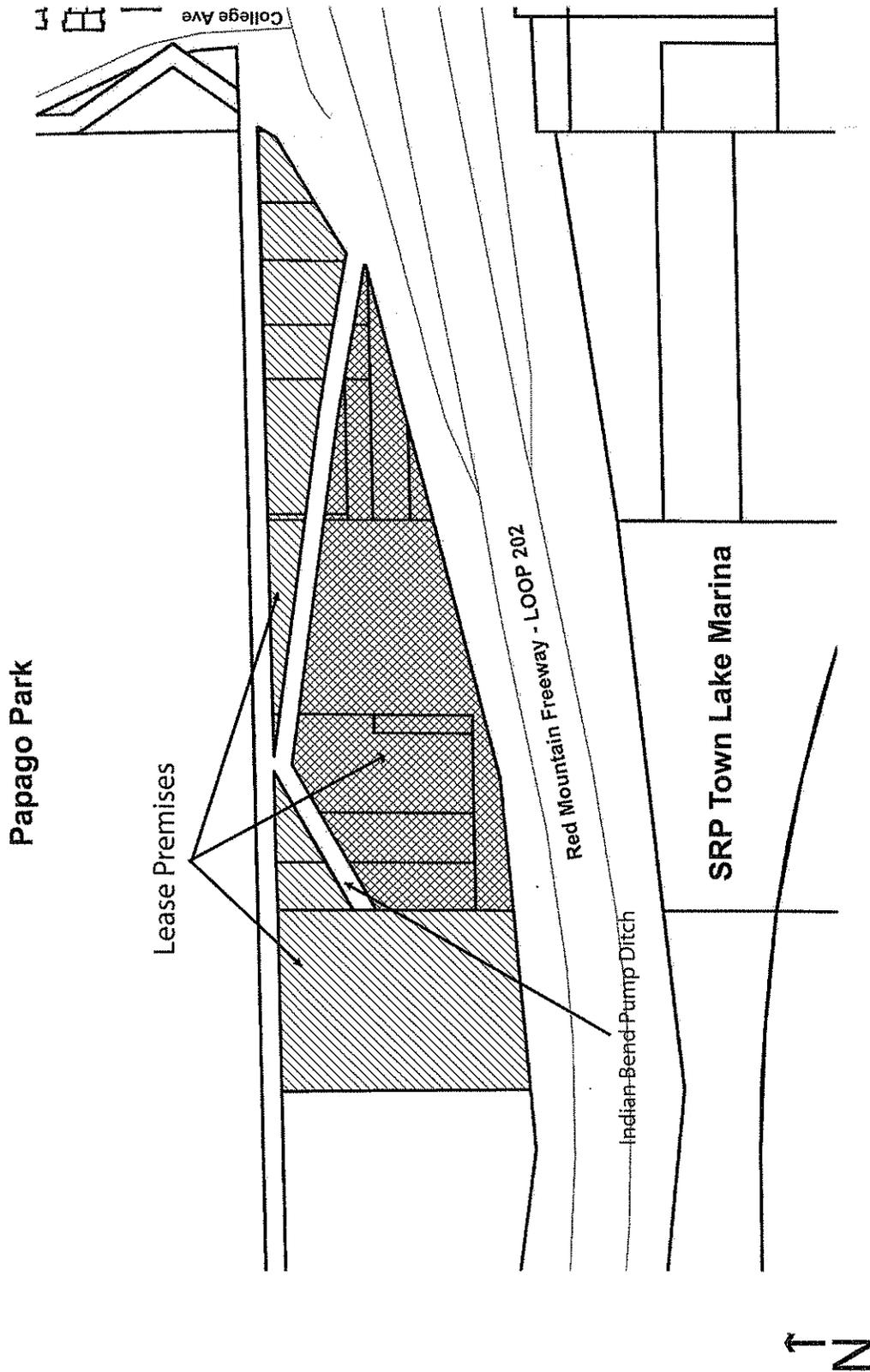


Exhibit B
Improvements and Operating Limitations

A. Improvements to be Constructed. Within 90 days after the execution of the Lease, Tenant shall submit a site plan for the initial term of the Lease, to include the following components:

- a. Stables for not more than 84 horses (40 trail ride; and 44 boarders)
- b. An arena no larger than 100' x 200'
- c. A practice area no larger than 100' x 50'
- d. One or more Tack Shed(s)
- e. Security lighting and fencing
- f. Shared use public parking from the Town Lake Marina with ADA accessible pedestrian access through the underpass.
- g. Parking stalls for employees and loading
- h. Water Tank or other public water source
- i. Office (2,000 sf +/-)
- j. Fire protection
- k. On site storm drainage
- l. Proper management of horse waste
- m. Signage

B. Operating Limitations

1. Tenant's stable operations shall be confined to the 7 +/- acres south of the SRP Indian Bend Pump Ditch Easement

2. Tenant may provide boarding on the Leased Premises only after the appropriate facilities are in place.

3. Landlord reserves the right to require installation of a public water and sewer connection if use of the site increases to a level where such installation is, in City's reasonable judgment, required for proper operation or is in the best interests of public safety, health and welfare

4. Tenant shall obtain all requisite permits and approvals before constructing an office/tack room with classroom space

5. Tenant acknowledges that the Leased Premises are in the flight path of Phoenix Sky Harbor airport, which may impact the Tenant's outdoor activities, which include riding lessons, camps, cookout/campfires, clinics, parties and special events

6. Tenant shall work with the local school programs to provide equine care education as well as riding lessons

7. Tenant shall work with the TCVB as a visitor activity in Tempe.

Exhibit C
(Insurance Requirements)

Minimum levels of insurance:

- A. Commercial General Liability: \$5,000,000 combined single limit per occurrence for bodily injury and property damage, including coverage for contractual liability (including defense expense coverage for additional insureds), personal injury, broad form property damage, products and completed operations. The general aggregate limit shall apply separately to the activities contemplated by this Agreement or the general aggregate shall be twice the required occurrence limit.
- B. Liquor Liability: \$5,000,000 single limit.
- C. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage, including coverage for owned, hired, and non-owned vehicles as applicable.
- D. Workers' Compensation and Employers' Liability: Workers' Compensation and Employers' Liability statutory limits as required by the State of Arizona.
- E. Property: Property insurance, including an installation floater, on an all-risk form, including earthquake and flood, for 100% of the replacement value, with any deductible, not to exceed \$5,000 (2% earthquake and flood). Such policy shall include the Tempe as a named insured as its interest may appear.
- F. Fire and Extended Coverage. Tenant shall obtain and carry course-of-construction insurance while Tenant is constructing the community center and shall insure all Tenant constructed buildings, facilities and improvements to 100% of their replacement cost, using a standard form fire insurance policy containing the "Extended Coverage" endorsement.
- G. Fidelity Bond: Tenant shall maintain throughout the term of this Agreement, at its expense, a blanket fidelity bond covering all officers and employees, in an amount not less than \$7,500, with any deductible not to exceed \$1,000, including Tempe as an additional obligee or loss payee as its interest may appear.

II. Deductibles and Self-Insured Retentions

- A. Any deductibles or self-insured retentions must be declared and approved by the Tempe. At the option of Tempe, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Tempe, its officials, employees, and volunteers or Tenant shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

III. Other Insurance Provisions

The policies or self insurance certifications are to contain, or be endorsed to contain, the following provisions:

- A. Commercial General Liability and Automobile Liability Coverage
 - 1. Tempe, its officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Tenant including the insured's general supervision of Tenant; products and completed operations of Tenant;

premises owned, occupied or used by Tenant, or automobiles owned, leased, hired or borrowed by Tenant. The coverage shall contain no special limitations on the scope of protection afforded to Tempe, its officials, employees, or volunteers related to Tenant's, its employees', agents', subcontractors', or sub-subcontractors' activities pursuant to this Agreement.

2. Tenant's insurance coverage shall be primary as respects the Tempe, its officials, employees, and volunteers. Any insurance or self-insurance maintained by Tempe, its officials, employees, or volunteers shall be excess of Tenant's insurance and shall not contribute to it.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Tempe, its officials, employees, or volunteers.
4. Coverage shall state that Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

B. Workers' Compensation and Employers' Liability Coverage

1. The insurer shall agree to waive all rights of subrogation against Tempe, its officials, employees and volunteers for losses arising from the activities performed by Tenant for Tempe pursuant to this Agreement.

C. All Coverages

1. Each insurance policy required by this Agreement shall be endorsed to state the coverage shall not be suspended, voided, and/or canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to Tempe.

IV. Other Insurance Requirements:

Tenant shall:

- A. Prior to commencement of services, furnish Tempe with certificates of insurance, in form and with insurers acceptable to Tempe's Risk Manager (or designee) which shall clearly evidence all insurance required in this Agreement and provide that such insurance shall not be canceled, allowed to expire or be materially reduced in coverage except on thirty (30) days prior written notice to and approval by Tempe, and in accord with the stated insurance requirements of this Exhibit. Tempe shall not be obligated, however, to review same or to advise Tenant of any deficiencies in such policies and endorsements, and such receipt shall not relieve Tenant from, or be deemed a waiver of the Tempe's right to insist on, strict fulfillment of Tenant's obligations under this Agreement.
- B. Provide certified copies of endorsements and policies if requested by Tempe in lieu of or in addition to certificates of insurance.
- C. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
- D. Maintain such insurance from the time services commence until services are completed. Should any required insurance lapse during this Agreement term, requests for payments originating after such lapse shall not be processed until Tempe receives satisfactory evidence of reinstated coverage as required by this

Agreement, effective as of the lapse date. If insurance is not reinstated, Tempe may at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

- E. Place such insurance with insurers and agents licensed and authorized to do business in Arizona and having a "Best's" rating of no less than A-VII.
- F. Maintain such coverage continuously throughout the term of this Agreement and without lapse for a period of two years beyond this Agreement expiration, should any of the required insurance be provided under a claims-made form, to the extent that should occurrences during the Agreement term give rise to the claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies. Such extension of coverage shall be evidenced by annual certificates of insurance.

V. Subcontractors and Sub-Subcontractors

Tenant shall include all subcontractors and sub-subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor and sub-subcontractor. All coverage for subcontractors and sub-subcontractors shall be subject to all of the requirements stated herein for Tenant.

VI. Safety

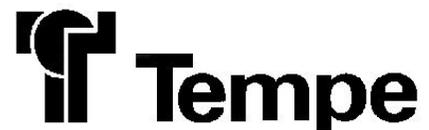
Tenant shall be solely and completely responsible for conditions of the sites used pursuant to this Agreement, including the safety of all persons (including employees) and property at the sites, including any set-up at the sites and any take-down at the sites. This requirement shall apply continuously and not be limited to normal hours of the sites. Safety provisions shall conform to all applicable federal (including OSHA), state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. Tenant's failure to thoroughly familiarize itself with the aforementioned safety provisions shall not relieve it from compliance with the obligations set forth therein.

Exhibit D
Conditions of Use

Tenant shall be responsible for satisfaction of the following conditions:

- 100 year on-site retention required
- If access is required along the SRP Indian Bend Pump Ditch, Tenant shall obtain SRP permission for use of Indian Bend Ditch for access and for paving improvements for the Pump Ditch roadway.
- Provide details of pedestrian and vehicle access under the 202.
- Submit paving plan
- Provide public water and wastewater for development of the site. Public water service will require a looped line.
- Obtain ADOT permission for wet utility easement under the 202 for public utilities to Marina
- Submit Drainage study
- Fire sprinklers are required for combustible structures
- Submit an Environmental/Water Protection and Animal Waste Disposal Plan
- Submit plan for Solid Waste refuse collection and recycling collection
- Parking for Use will require approximately nine parking spaces. A Shared Use parking agreement with the City of Tempe will be required for spaces at the marina.
- Owner to provide security fence around the perimeter of the facility. Provide for Police access at gates for emergency ingress
- Provide a security plan
- Provide a lighting plan
- Provide approved Fire Department access.
- Submit development plan review (building, site, landscape)
- Address property lines with respect to layout of buildings and structures
- Orient the Office to improve solar orientation.

Staff Summary Report



Council Meeting Date: 9/2/2010

Agenda Item Number: 5C3

SUBJECT: This is the introduction and first public hearing to amend Chapter 26 of the Tempe City Code relating to Police by amending Section 26-3; to amend Chapter 19 of the Tempe City code relating to Motor Vehicles and Traffic by amending Section 19-5; and Declaring the Existence of an Emergency. The second public hearing is scheduled for September 16, 2010.

DOCUMENT NAME: TCC CH 26 – POLICE (0503-26) Ordinance No. 2010.34

COMMENTS: The City recently contracted with DTC to provide downtown parking enforcement. This ordinance clarifies their authority under state law to conduct such enforcement.

PREPARED BY: Andrew B. Ching, City Attorney (480) 350-8575

LEGAL REVIEW BY: Andrew B. Ching, City Attorney (480) 350-8575

DEPARTMENT REVIEW BY: Andrew B. Ching, City Attorney (480) 350-8575

FISCAL NOTE: N/A

RECOMMENDATION: Staff recommends adoption of Ordinance No. 2010.34

ADDITIONAL INFO: N/A

ORDINANCE NO. 2010.34

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 26, TEMPE CITY CODE, RELATING TO POLICE BY AMENDING SECTION 26-3; AMENDING CHAPTER 19 OF THE TEMPE CITY CODE, RELATING TO MOTOR VEHICLES AND TRAFFIC BY AMENDING SECTION 19-5; AND DECLARING THE EXISTENCE OF AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Section 26-3 of the Tempe City Code is hereby amended to read as follows:

Sec. 26-3. Powers of aides.

(A) A police aide shall be employed by the police department and shall be empowered to commence an action or proceeding before a court or judge for any violation of any ordinance of the city regulating the standing or parking of vehicles, and shall possess such other powers as may be incidental thereto. This section shall not be construed to grant to any police aide other powers or benefits to which peace officers of the state are entitled.

(B) MUNICIPALLY APPROVED PRIVATE CONTRACTORS WHO ARE CONTRACTED BY THE POLICE DEPARTMENT SHALL BE EMPOWERED TO COMMENCE AN ACTION OR PROCEEDING BEFORE A COURT OR JUDGE FOR ANY VIOLATION OF ANY ORDINANCE OF THE CITY REGULATING THE STANDING OR PARKING OF VEHICLES, AND SHALL POSSESS SUCH OTHER POWERS AS MAY BE INCIDENTAL THERETO. THIS SECTION SHALL NOT BE CONSTRUED TO GRANT TO ANY MUNICIPALLY APPROVED PRIVATE CONTRACTOR OTHER POWERS OR BENEFITS TO WHICH PEACE OFFICERS OF THE STATE ARE ENTITLED.

Section 2. That Section 19-5 of the Tempe City Code is hereby amended to read as follows:

Sec. 19-5. Parking violations; notice required; judgment by default.

Whenever a vehicle without a driver is found parked in violation of the provisions of this chapter, any police officer, MUNICIPALLY APPROVED PRIVATE CONTRACTOR or employee of the city designated to give such notices, ~~as a part of his official duties~~ shall take the vehicle's registration number, and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously attach to the vehicle a notice of parking violation on a form supplied by the police department. The notice of parking violation shall include the date, time and location of the violation, the vehicle registration number, reference to

the city code provisions violated, and a warning that failure either to pay the fine indicated on the notice or to appear at the location indicated on the notice of parking violation and otherwise dispose of the charge within seven (7) calendar days from the date on which the notice was issued may result in a judgment by default being entered against the registered owner of the vehicle, and that the vehicle may thereafter be subject to immobilization by the installation of a wheel clamp and to towing and impoundment pursuant to § 19-4. The notice of parking violations attached to the vehicle pursuant to this section shall be deemed constructive notice to the registered owner that the vehicle may be immobilized and impounded.

Section 3. Emergency. The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, safety and general welfare of the community, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its adoption by the City Council of the City of Tempe.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2010.

MAYOR

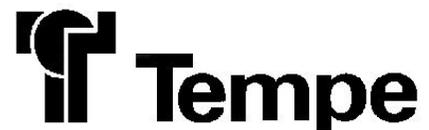
ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Staff Summary Report



Council Meeting Date: 09/2/10

Agenda Item Number: _____

SUBJECT: This is the second and final public hearing to adopt an ordinance authorizing the granting of an electrical "Utility Easement" to Salt River Project by the City of Tempe.

DOCUMENT NAME: 20100902PWWS01 GRANT OF EASEMENT (0904-02) ORDINANCE NO. 2010.30

COMMENTS: This easement will enable Salt River Project to provide electrical power to operate lighting for the Rio Salado Restoration Project, Phase 3, located adjacent to the south bank of Tempe Town Lake.

PREPARED BY: Wendy Springborn, Engineering Services Administrator (x8250)

REVIEWED BY: Andy Goh, Deputy PW Director/City Engineer (x8896)

LEGAL REVIEW BY: Cynthia McCoy, Assistant City Attorney (x2187)

DEPARTMENT REVIEW BY: Don Bessler, Public Works Director (x8205)

FISCAL NOTE: N/A

RECOMMENDATION: Adopt Ordinance No. 2010.30 and authorize the Mayor to execute any necessary documents.

ADDITIONAL INFO: This utility easement is required to operate a multi-use pathway lighting system located adjacent to the south bank of the Tempe Town Lake.

ORDINANCE NO. 2010.30

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE GRANTING OF AN ELECTRICAL UTILITY EASEMENT ON CITY-OWNED PROPERTY LOCATED ALONG THE SOUTH BANK OF TEMPE TOWN LAKE.

WHEREAS, it has been determined that electrical power is required to operate multiuse pathway lighting located adjacent to the south bank of the Tempe Town Lake; and

WHEREAS, the City of Tempe wishes to grant an electrical utility easement for the construction and maintenance of facilities for the transmission of electrical power to Salt River Project on a portion of City-owned property, as described in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, MARICOPA COUNTY, ARIZONA, AS FOLLOWS

Section 1. That the City of Tempe does hereby authorize the granting of an electrical utility easement to Salt River Project on the property described on, and in the form attached hereto as, Exhibit "A".

Section 2. The Mayor or his designee is authorized to execute any documents that may be necessary to carry out the provisions of this Ordinance, including without limitation the attached easements.

Section 3. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

Ordinance No. 2010.30
Page Two

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA this 2nd day of September, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT

Land Department/PAB400

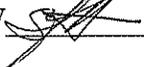
P. O. Box 52025

Phoenix, Arizona 85072-2025

POWER DISTRIBUTION EASEMENT

Maricopa County
Parcels 132-32-004G & 132-32-014
NE¼ Sec.14, T1N, R4E

Agt. SCF
Job # KJP-71

W  C 

**CITY OF TEMPE,
a municipal corporation,**

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

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

Grantor's Property 1:

A portion of the Southwest quarter of the Northeast quarter and the Southeast quarter of the Northwest quarter of Section 14, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, as more particularly described in Exhibit A of the Final Order Of Condemnation, Instrument No. 1997-0358072, records of Maricopa County, Arizona.

Grantor's Property 2:

A portion of the North Half of Section 14, Township 1 North, Range 4 East of the Gila and Salt River Meridian, more particularly described Tract A in Book 943 Of Maps, Page 33, records of Maricopa County, Arizona.

Easement Parcel:

Said easement being 8.00 feet in width, lying 4.00 feet on each side of the line described as "CENTERLING OF 8' EASEMENT" on EXHIBIT A. (prepared by Salt River Project A. I. & Power District, dated 06/16/10), attached hereto and by this reference made a part hereof.

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

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

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

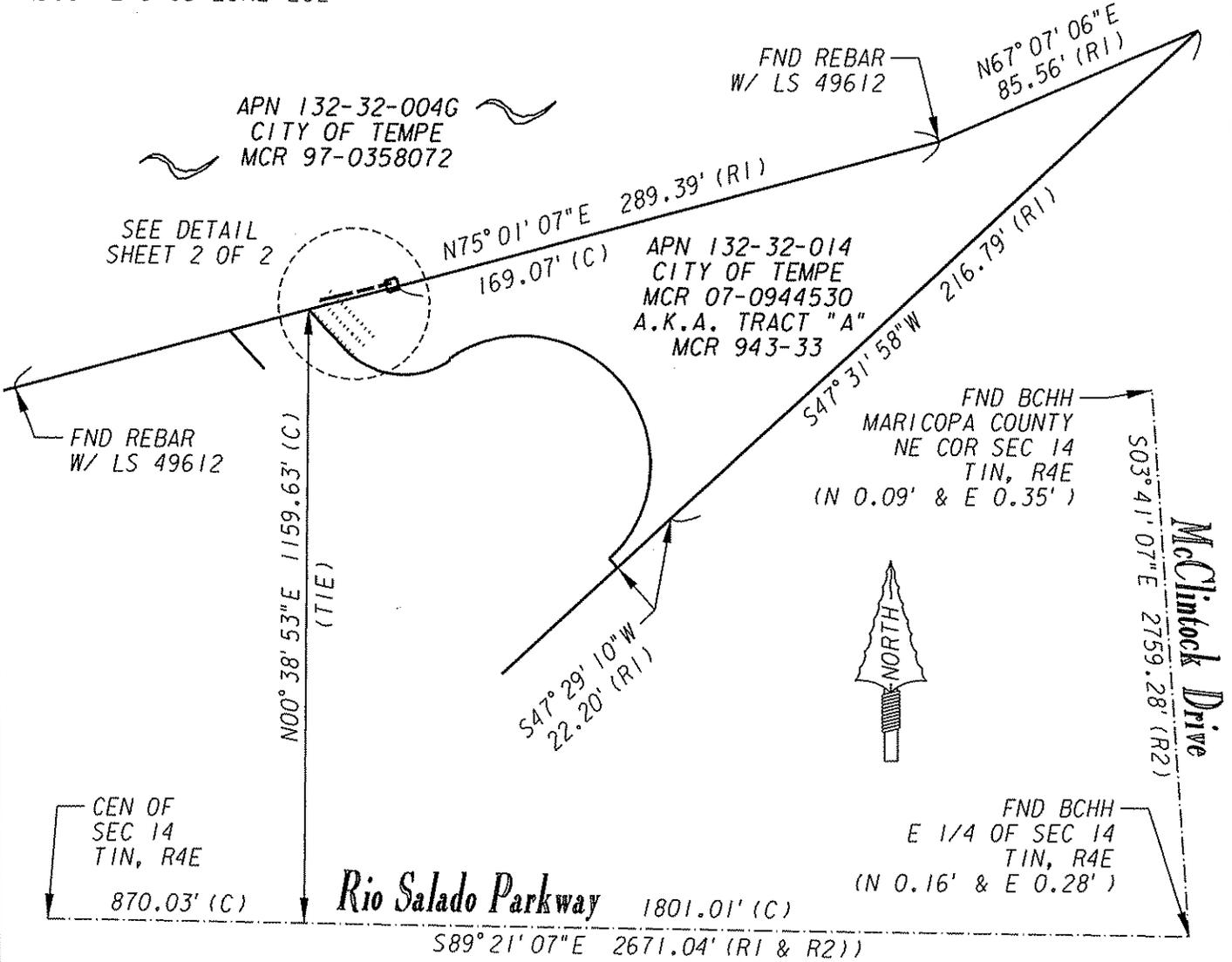
Grantee shall have the right (but not the obligation) to trim, cut and clear away trees, brush or other vegetation on, the Easement Parcel whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

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

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

BASIS OF BEARING
NAD83 AZ SPCS ZONE 202

EXHIBIT "A"



LEGEND

- SECTION AND CENTERLINE
- PROPERTY LINE
- CENTERLINE OF 8' EASEMENT
- SRP UG EASEMENT PER MCR 09-0547229

CAUTION

THE EASEMENT LOCATION AS HEREON DELINEATED MAY CONTAIN HIGH VOLTAGE ELECTRICAL EQUIPMENT, NOTICE IS HEREBY GIVEN THAT THE LOCATION OF UNDERGROUND ELECTRICAL CONDUCTORS OR FACILITIES MUST BE VERIFIED AS REQUIRED BY ARIZONA REVISED STATUES, SECTION 40-380.21, ET. SEQ., ARIZONA BLUE STAKE LAW, PRIOR TO ANY EXCAVATION.

SRP JOB.
KJP-71

NOTE: SYMBOLS MAY NOT BE TO DRAWING SCALE, SO AS TO BETTER ENHANCE GRAPHICAL REPRESENTATION

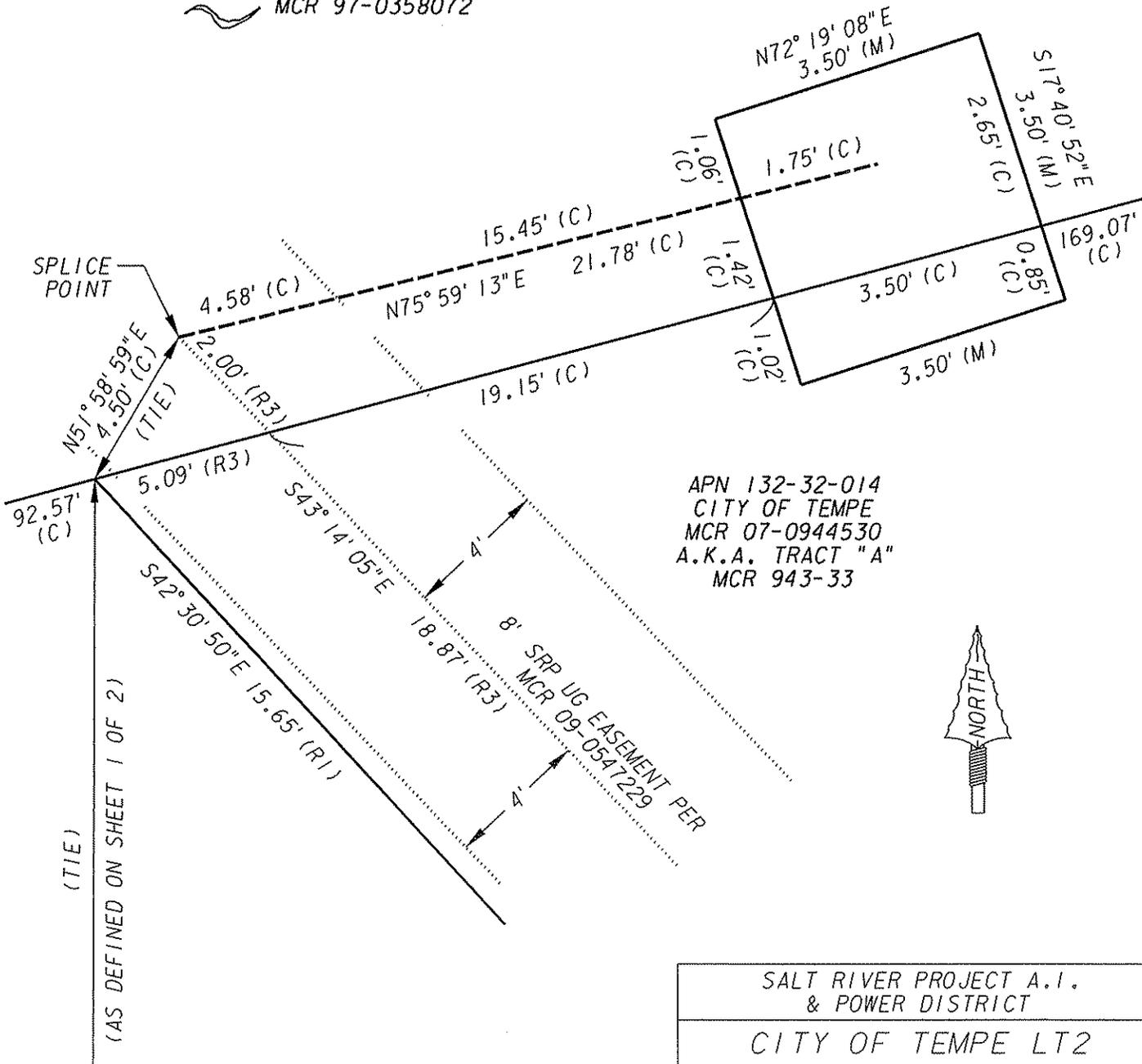
NOTE: THIS EXHIBIT IS INTENDED TO ACCOMPANY AN EASEMENT, IT IS NOT A SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH.

SALT RIVER PROJECT A.1. & POWER DISTRICT	
CITY OF TEMPE LT2 NE 1/4, SEC. 14, TIN, R4E UNDERGROUND ELECTRIC POWER LINE RIGHT-OF-WAY MARICOPA COUNTY, ARIZONA	
DESIGNED: YBARRA	AGENT: FURROW
DRAWN: V Harding	CHK'D BY: GM
DATE: 6/16/10	APPROVED:
SCALE: N.T.S.	SHEET 1 OF 2

EXHIBIT "A"

APN 132-32-004G
 CITY OF TEMPE
 MCR 97-0358072

APN 132-32-014
 CITY OF TEMPE
 MCR 07-0944530
 A.K.A. TRACT "A"
 MCR 943-33

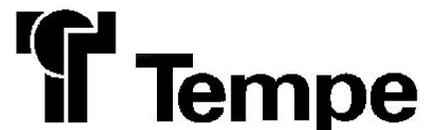


REFERENCE INFO.
 (R1) - MCR 943-33
 (R2) - MCR 365-35
 (R3) - MCR 09-0547229

SRP JOB.
 KJP-71

SALT RIVER PROJECT A.1. & POWER DISTRICT	
CITY OF TEMPE LT2 NE 1/4, SEC. 14, T1N, R4E UNDERGROUND ELECTRIC POWER LINE RIGHT-OF-WAY MARICOPA COUNTY, ARIZONA	
DESIGNED: <u>YBARRA</u>	AGENT: <u>FURROW</u>
DRAWN: <u>VHARDING</u>	CHK'D BY: <u>GM</u>
DATE: <u>6/16/10</u>	APPROVED: _____
SCALE: <u>N.T.S.</u>	SHEET <u>2 OF 2</u>

Staff Summary Report



Council Meeting Date: 09/2/10

Agenda Item Number: _____

SUBJECT: This is the second and final public hearing to adopt an ordinance authorizing the granting of an electrical "Utility Easement" to Salt River Project by the City of Tempe.

DOCUMENT NAME: 20100902PWWS02 GRANT OF EASEMENT (0904-02) ORDINANCE NO. 2010.29

COMMENTS: This easement will enable Salt River Project to provide electrical power to operate Well Site Number Nine, located at 1502 East Calle De Caballos.

PREPARED BY: Wendy Springborn, Engineering Services Administrator (x8250)

REVIEWED BY: Andy Goh, Deputy PW Director/City Engineer (x8896)

LEGAL REVIEW BY: Cynthia McCoy, Assistant City Attorney (x2187)

DEPARTMENT REVIEW BY: Don Bessler, Public Works Director (x8205)

FISCAL NOTE: N/A

RECOMMENDATION: Adopt Ordinance No. 2010.29 and authorize the Mayor to execute any necessary documents.

ADDITIONAL INFO:

ORDINANCE NO. 2010.29

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE GRANTING OF AN ELECTRICAL UTILITY EASEMENT ON CITY OWNED PROPERTY LOCATED ALONG THE SOUTH BANK OF TEMPE TOWN LAKE.

WHEREAS, it has been determined that electrical power is required to operate equipment at the Well Site Number Nine located at 1502 East Calle De Caballos; and

WHEREAS, the City of Tempe wishes to grant an electrical utility easement for the construction and maintenance of facilities for the transmission of electrical power to Salt River Project on a portion of City-owned property, as described in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, MARICOPA COUNTY, ARIZONA, AS FOLLOWS

Section 1. That the City of Tempe does hereby authorize the granting of an electrical utility easement to Salt River Project on the property described on, and in the form attached hereto as, Exhibit "A".

Section 2. The Mayor or his designee is authorized to execute any documents that may be necessary to carry out the provisions of this Ordinance, including without limitation the attached easements.

Section 3. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

Ordinance No. 2010.29
Page Two

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA this 2nd day of September, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT
Land Department/PAB400
P. O. Box 52025
Phoenix, Arizona 85072-2025

POWER DISTRIBUTION EASEMENT

Maricopa County
SE ¼ Sec. 14, T1S, R4E

Agt. WGH
Job # KJP-53

W  C _____

CITY OF TEMPE,
a municipal corporation,

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

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

Grantor's Property:

The South 50 feet of the North 70 feet of Tract "B" Calle de Caballos, according to Book 97 of Maps, page 33, records of Maricopa County, more particularly described in Docket 10745, page 437 records of Maricopa County, Arizona.

Easement Parcel:

Said easement being more particularly described in Exhibit A, (prepared by Salt River Project A.I. & Power District, dated 06/23/2010), attached hereto and by this reference made a part hereof.

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

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

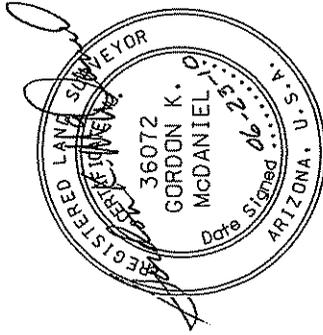
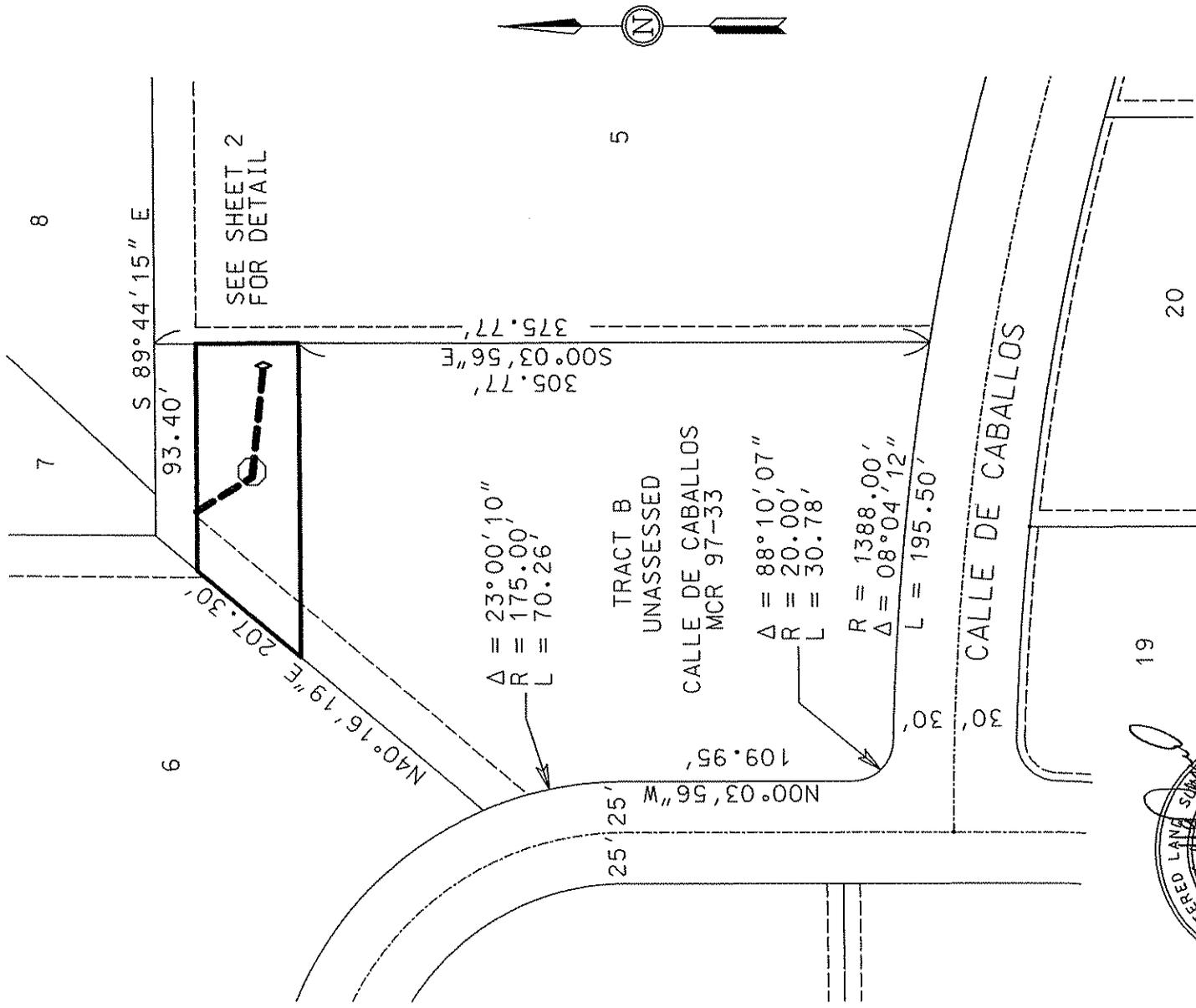
Grantor shall not construct, install or place, or permit to be constructed, installed or placed any building or other structure, plant any trees, drill any well, store materials of any kind, or alter ground level by cut or fill, within the area of the Easement Parcel.

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

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

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

EXHIBIT "A"



REGISTRATION
EXPIRES 03-31-2013

LEGEND

- NOTE: SYMBOLS MAY NOT BE TO DRAWING SCALE, SO AS TO BETTER ENHANCE GRAPHICAL REPRESENTATION
- SECTION AND CENTERLINE
- PROPERTY LINE
- CENTERLINE OF 8' EASEMENT
- EQUIPMENT PAD - UNLESS OTHERWISE NOTED ARE PART OF THE EASEMENT

BASIS OF BEARING:
THE ARIZONA STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83 DATUM.

NOTES: THIS EXHIBIT IS INTENDED TO ACCOMPANY AN EASEMENT. IT IS NOT A SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH.

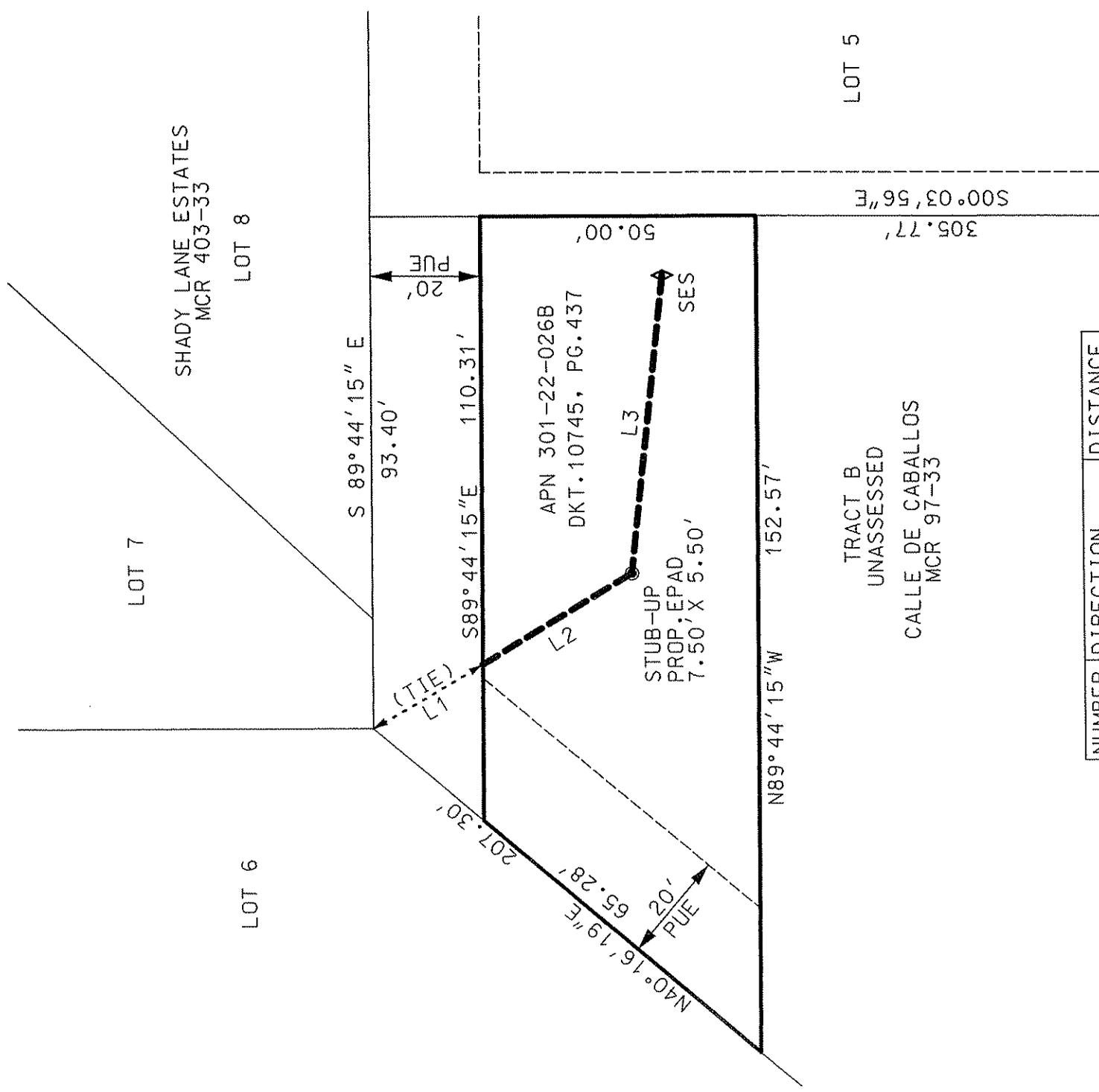
EQUIPMENT PAD(S) ARE A PART OF THE EASEMENT UNLESS OTHERWISE NOTED.

CAUTION

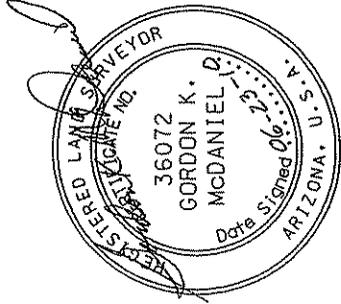
THE EASEMENT LOCATION AS HEREON DELINEATED MAY CONTAIN HIGH VOLTAGE ELECTRICAL EQUIPMENT, NOTICE IS HEREBY GIVEN THAT THE LOCATION OF UNDERGROUND ELECTRICAL CONDUCTORS OR FACILITIES MUST BE VERIFIED AS REQUIRED BY ARIZONA REVISED STATUTES, SECTION 40-380.21, ET. SEQ., ARIZONA BLUE STAKE LAW, PRIOR TO ANY EXCAVATION.

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT & POWER DISTRICT	SRP JOB NO. KJP-53
WELL #9 SITE IMPROVEMENTS SE 1/4. SEC.14, T.1 S., R.4 E. MARICOPA COUNTY, ARIZONA UNDERGROUND ELECTRIC POWER LINE RIGHT-OF-WAY	DESIGNED DYSON DATE 06-23-10 DRAWN GM CHECKED BY: JG AGENT HEIDKE APPROVED: SCALE N.T.S. SHEET 1 OF 2

EXHIBIT "A"



NUMBER	DIRECTION	DISTANCE
L1	S 30°12'10" E	23.20'
L2	S 31°17'40" E	31.85'
L3	S 83°39'53" E	54.73'



REGISTRATION
EXPIRES 03-31-2013

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
& POWER DISTRICT

WELL #9 SITE IMPROVEMENTS
SE 1/4, SEC.14, T.1 S., R.4 E.
MARICOPA COUNTY, ARIZONA
UNDERGROUND ELECTRIC
POWER LINE RIGHT-OF-WAY

SRP JOB NO. KJP-53

DESIGNED DYSON DATE 06-23-10
DRAWN GM CHECKED BY: JG
AGENT HEIDKE APPROVED: _____
SCALE N.T.S. SHEET 2 OF 2

Staff Summary Report



Council Meeting Date: 09/2/10

Agenda Item Number: _____

SUBJECT: This is the second and final public hearing to adopt an ordinance authorizing the granting of an easement to Southwest Gas Corporation to install and maintain the facilities necessary to provide gas service to 1829 E. Apache Blvd.

DOCUMENT NAME: 20100902PWWS03 GRANT OF EASEMENT (0904-02) ORDINANCE NO. 2010.31

COMMENTS: This easement will enable Southwest Gas Corporation to provide gas service to 1829 E. Apache Blvd.

PREPARED BY: Wendy Springborn, Engineering Services Administrator (x8250)

REVIEWED BY: Andy Goh, Deputy PW Director/City Engineer (x8896)

LEGAL REVIEW BY: Cynthia McCoy, Assistant City Attorney (x2187)

DEPARTMENT REVIEW BY: Don Bessler, Public Works Director (x8205)

FISCAL NOTE: N/A

RECOMMENDATION: Adopt Ordinance No. 2010.31 and authorize the Mayor to execute any necessary documents.

ADDITIONAL INFO:

ORDINANCE NO. 2010.31

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, GRANTING A GAS LINE EASEMENT TO SOUTHWEST GAS CORPORATION, ON A PORTION OF CITY OWNED PROPERTY LOCATED AT 1829 E. APACHE BLVD IN SECTION 24, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA AS DESCRIBED IN THE ATTACHED EXHIBIT.

WHEREAS, it has been determined that a gas line easement is required across City of Tempe property located at 1829 E Apache Blvd; and

WHEREAS, the City of Tempe wishes to grant a gas line easement for the construction and maintenance of facilities for the transmission of gas services to Salt River Project on a portion of City-owned property, as described in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, MARICOPA COUNTY, ARIZONA, AS FOLLOWS

Section 1. That the City of Tempe does hereby authorize the granting of a gas line easement to Southwest Gas Corporation on the property described in, and in the form attached hereto as, Exhibits A consisting of 4 pages.

Section 2. The Mayor or his designee is authorized to execute any documents that may be necessary to carry out the provisions of this Ordinance, including without limitation the attached easements.

Section 3. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

Ordinance No. 2010.31
Page Two

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA this 2nd day of September, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

APN # 133-04-015

Recording Requested By/Return To:
Southwest Gas Corporation

Hold for Pick Up



SOUTHWEST GAS CORPORATION **GRANT OF EASEMENT**

This form is used to acquire land rights for installation of pipeline(s) and appurtenances.

Prepared By Mary Carson Approved By Greg Cooper
Sec. 24 T 1N R 4E Meridian G&SRB & M
County Maricopa State Arizona
W.R. No. 873440 W.O. No. _____

I (We) The City of Tempe, an Arizona Municipal Corporation

For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the undersigned, hereinafter referred to as Grantor(s), does hereby grant, convey, quitclaim and release unto **SOUTHWEST GAS CORPORATION**, a California Corporation, its, successors and assigns hereinafter referred to as Grantee, a perpetual easement 8.00 feet wide for the installation and maintenance of a natural gas pipeline or pipelines and appurtenances, across, over, under and through the following described property, to wit:

SEE ATTACHED EXHIBIT(s) "A" & "B" Attached Hereto and Made a Part Hereof

together with the right of ingress and egress to and from the said easement and the right to use existing roads for the purpose of constructing, inspecting, repairing, and maintaining said pipeline or pipelines and appurtenances and the removal or replacement of same, in whole or in part, at will.

Grantor agrees that no buildings, structures, fences or trees shall be placed upon, over or under said parcel of land, except for street, road or driveway purposes, which Grantor agrees shall not interfere with Grantee's exercise of the rights herein granted. Grantee agrees to work with due care in the exercise of its rights on the property and to restore it to reasonably the same condition which existed before the work was performed.

Except as provided above, Grantee agrees to pay all direct damages which are caused by the Grantee's exercise of the rights herein granted.

W.R. No. 873440

W.O. No. _____

The undersigned hereby affirms that there is no Social Security Number contained in this document submitted for recording.

TO HAVE AND TO HOLD said easement unto Grantee, its successors and assigns, together with all rights granted hereby.

IN WITNESS WHEREOF, the duly authorized representative of the undersigned has executed this Grant of Easement this

_____ day of _____, _____

City of Tempe

Grantor _____
Officer's Name Title

Grantor _____
Printed Name Title

ACKNOWLEDGMENT

STATE OF _____)

)

COUNTY OF _____)

On _____, before me, _____
(here insert name of the officer)

a notary public, personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**LEGAL DESCRIPTION 'A'
GAS LINE EASEMENT**

A PORTION OF LOT 2, McCLINTOCK AND APACHE PARK AND RIDE, AS RECORDED IN BOOK 933 OF MAPS, PAGE 46, RECORDS OF MARICOPA COUNTY ARIZONA, LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 2;

THENCE NORTH 89°36'42" WEST ALONG THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 53.60 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°36'42" WEST ALONG SAID SOUTH LINE, 4.43 FEET TO THE SOUTHERLY COMMON CORNER OF LOTS 1 & 2 OF McCLINTOCK AND APACHE PARK AND RIDE, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE WESTERLY, HAVING A RADIUS POINT WHICH BEARS SOUTH 88°50'55" WEST, 63.93 FEET;

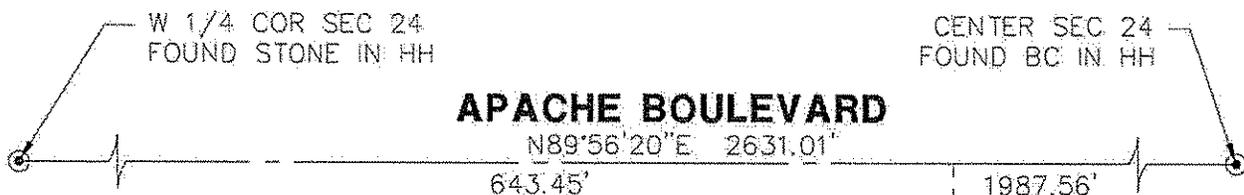
THENCE NORTHERLY ALONG SAID CURVE, BEING THE COMMON LINE OF LOTS 1 & 2, THROUGH A CENTRAL ANGLE OF 5°56'27", AN ARC DISTANCE OF 6.63 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT, CONCAVE EASTERLY, HAVING A RADIUS OF 100.00 FEET;

THENCE CONTINUING ALONG SAID COMMON LINE, NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 27°19'19", AN ARC DISTANCE OF 47.69 FEET;

THENCE DEPARTING SAID COMMON LINE, SOUTH 00°31'56" WEST, 53.57 FEET TO THE SOUTH LINE OF LOT 2 AND THE POINT OF BEGINNING.

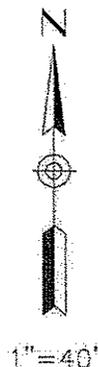


EXHIBIT "B"



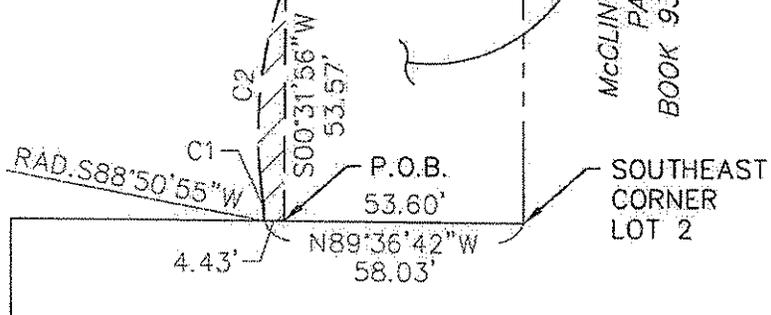
LINE TABLE		
LINE	LENGTH	BEARING
L1	30.27'	N02°09'07"W
L2	8.62'	N86°18'55"E
L3	24.70'	N42°13'15"E
L4	1.24'	N86°33'28"E

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	6.63'	63.93'	5°56'27"
C2	47.69'	100.00'	27°19'19"
C3	24.13'	100.00'	13°49'38"
C4	66.87'	99.50'	38°30'24"



LOT 1
McCLINTOCK AND APACHE
PARK AND RIDE
BOOK 933, PAGE 46, M.C.R.

LOT 2
McCLINTOCK AND APACHE
PARK AND RIDE
BOOK 933, PAGE 46, M.C.R.



NOTE: THIS EXHIBIT WAS PREPARED SOLELY AS A REFERENCE FOR THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED. IT IS NOT MEANT TO BE A STANDALONE DOCUMENT NOR THE RESULT OF A FIELD SURVEY.

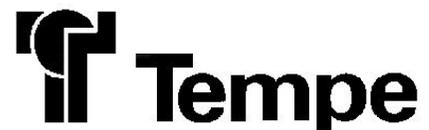
	BY	DATE
DESIGNED	DBT	7/14/10
CHECK	ACA	7/14/10

Hersey Aerni & Associates
5025 S. ASH AVE, SUITE B/G
Tempe, Arizona 85282
(480) 897-0018

GAS LINE EASEMENT

JOB NO. 10104
SHEET 2 OF 2

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: Request approval of a resolution authorizing the Mayor to sign the Fourth Amendment to the Intergovernmental Agreement between the Maricopa County Library District and the City of Tempe for participation in the Reciprocal Borrowing Program.

DOCUMENT NAME: 20100902cskb01 LIBRARY ADMINISTRATION (0704-01) RESOLUTION NO. 2010.108

COMMENTS: It is estimated that the City will receive approximately \$185,000 in revenue for FY 2010/2011 at the reimbursement rate of \$28.50 per net non-resident borrower card issued for the one-year term of the Amendment.

PREPARED BY: Adrienne Richwine, Deputy Community Services Department Director - Library and Cultural Services (480-350-5237)

REVIEWED BY: Kathy Berzins, Community Services Department Director (480-350-5464)

LEGAL REVIEW BY: Judi Morgan, Deputy City Attorney (480-350-8779)

DEPARTMENT REVIEW BY: Kathy Berzins, Community Services Department Director (480-350-5464)

FISCAL NOTE: It is estimated that the City will receive approximately \$185,000 in revenue for FY 2010/2011.

RECOMMENDATION: Adoption of Resolution No. 2010.108 approving the Fourth Amendment to extend the term of the Intergovernmental Agreement for the City's participation in the Maricopa County Library District's Reciprocal Borrowing Program through June 30, 2011.

ADDITIONAL INFO: The Tempe Public Library has participated in the Maricopa County Library District's Reciprocal Borrowing Program since 1981. This program permits residents of the County to borrow materials at any public library within its boundaries at no charge to the borrower. On July 19, 2001, the City Council approved a five-year intergovernmental agreement with the County Library District for its participation in the program.

The Maricopa Association of Governments (MAG) Management Committee formed the MAG County Library District Stakeholders Group in March, 2005, to discuss the compensation rate for participating in the Reciprocal Borrowing Program. These discussions resulted in an amendment to the agreement which increased the reimbursement rate to \$24.50 in FY 2005/2006, \$29 in FYS 2006/2007 and 2008/2009, and \$26 in FY 2009/2010. The District has proposed increasing the reimbursement rate to \$28.50 and reducing the duration of the agreement to a one-year-term because the District cannot project its revenue beyond one year.

The City Council approved the First Amendment to the Intergovernmental Agreement on December 1, 2005; the Second Amendment on May 17, 2007; and the Third Amendment on June 11, 2009. The Fourth Amendment extends the term of the agreement to June 30, 2011.

RESOLUTION NO. 2010.108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO SIGN A FOURTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE MARICOPA COUNTY LIBRARY DISTRICT AND THE CITY OF TEMPE TO PARTICIPATE IN THE RECIPROCAL BORROWING PROGRAM EFFECTIVE JULY 1, 2010.

WHEREAS, the Maricopa County Library District (“Library District”) has established a Reciprocal Borrowing Program for the benefit of its members in order to expand the availability of library services; and

WHEREAS, the City of Tempe (“City”) entered into an Intergovernmental Agreement (“IGA”) with the Library District for City’s participation in this program which was amended on May 3, 2006, August 22, 2007, and June 11, 2009; and

WHEREAS, the Library District and City are willing to continue the program; and

WHEREAS, the City wishes to have its municipal library participate and benefit from the Reciprocal Borrowing Program by being reimbursed by the Library District for net use of its library and library services by those non-residents who are entitled to the benefits of the Maricopa County Library District and participation will allow Tempe citizens to use other public libraries in Maricopa County; and

WHEREAS, the Fourth Amendment requires approval by all agreeing parties and includes the following: Extends the term of the Agreement through June 30, 2011; and revises the reimbursement rate of \$28.50 per net non-resident card issued.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That the Fourth Amendment to the Intergovernmental Agreement for participation in the Reciprocal Borrowing Program between the Maricopa County Library District and the City of Tempe is approved, and that the Mayor is authorized to sign the Amendment for the City of Tempe.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2010.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



MARICOPA COUNTY LIBRARY DISTRICT
2700 N. Central Avenue, Suite 700
Phoenix, AZ 85004-1140
Phone: 602.652.3031
Fax: 602.652.3079
www.meldaz.org

June 22, 2010

Tempe Public Library
Attn: Adrienne Richwine
3500 S. Rural Road
Tempe, AZ 85282-5482

RE: Intergovernmental Agreement for Reciprocal Borrowing Program

Dear Ms. Richwine:

Attached are four original copies of the Fourth Amendment to the Intergovernmental Agreement for the Reciprocal Borrowing Program for fiscal years 2010/2011. This amendment is for one year with a reimbursement rate of \$28.50 based on the most recent "Arizona Public Library Statistics report. As you know, we determine the reimbursement rate by dividing the county population into the total expenditure of the public libraries in Maricopa County.

This is a one-year amendment because with the current economic climate, the Library District cannot project its revenue beyond one year. We know the District's revenue will be adversely affected by the rather drastic drop in real estate valuations. If you have questions, please do not hesitate to call me.

After council approval, please return all four originals to:

Maricopa County Library District
Attn: Cindy White
2700 N. Central Avenue, Suite 700
Phoenix, AZ 85022

After the Maricopa County Library Board of Directors has approved the contract and it has been recorded, an original will be returned to you for your records.

Thank you for your cooperation.

Harry R. Courtright
Director/County Librarian

Enclosures

FOURTH AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
BETWEEN THE
MARICOPA COUNTY LIBRARY DISTRICT
AND THE CITY OF TEMPE
FOR
THE RECIPROCAL BORROWING PROGRAM

Agenda # _____

THIS FOURTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT C-65-02-018-2 ("Amendment"), that was effective July 1, 2001, by and between the City of Tempe ("City") and the Maricopa County Library District ("Library District"), with reference to the following facts:

RECITALS

WHEREAS, the Library District has established a Reciprocal Borrowing Program for the benefit of its members in order to expand the availability of Library Services;

WHEREAS the City has participation in this program; and

WHEREAS the Library District is willing to continue the program;

NOW THEREFORE the City and the Library District agree that the IGA, effective July 1, 2001 shall continue with the following amendments:

AMENDMENTS

- 1.1. The effective date for services under this Amendment shall be July 1, 2010 to June 30, 2011.
- 1.2. The District shall reimburse the City, semi-annually, at \$28.50.
- 1.3. The IGA, as amended by this Amendment, is hereby confirmed. All other terms and conditions of the IGA shall remain in full force and effect.

IN WITNESS WHEREOF, the CITY OF TEMPE and the MARICOPA COUNTY LIBRARY DISTRICT have executed this Agreement effective on the date first above written.

CITY OF TEMPE

MARICOPA COUNTY
LIBRARY DISTRICT

By: _____
Mayor
City of Tempe

By: _____
Chairman, Board of Directors
Maricopa County Library District

ATTEST:

ATTEST:

By: _____
City Clerk Date

By: _____
Clerk of the Board Date

The foregoing Agreement has been reviewed by the undersigned counsel who has determined that it is in proper form and within the power and authority granted under the laws of the State of Arizona.

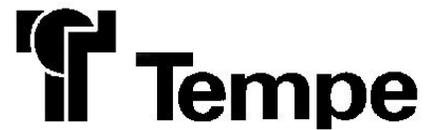
Attorney
City of Tempe

Attorney
Maricopa County Library District

Date: _____

Date: _____

Staff Summary Report



City Council Meeting Date: 9/2/10

Agenda Item Number: 5E2

SUBJECT: Request approval of a resolution authorizing the Mayor to execute the Southbank settlement agreement and related documents, which together amend the development agreement, provide for reconveyance of the property to the City, grant the developer an option to reacquire the property, and require certain option payments from developer and its affiliates.

DOCUMENT NAME: 20100902cdswws01 **REAL PROPERTY DISPOSITION (0902-21-01)** RESOLUTION NO. 2010.111

COMMENTS: Authorize the Mayor to execute a settlement agreement and all documents referenced therein, including with out limitation, the option agreement, and to take such further actions and execute such additional documents as may be necessary or appropriate to implement the settlement agreement.

PREPARED BY: Sheri S. Wakefield-Saenz, Economic Development Manager (350-8812)

REVIEWED BY: Chris Anaradian, Community Development Director (858-2204)

LEGAL REVIEW BY: Cynthia McCoy, Assistant City Attorney (350-2187)

DEPARTMENT REVIEW BY: Chris Anaradian, Community Development Director (858-2204)

FISCAL NOTE: The unpaid principal and interest due on the note (\$28,702,112.85), is being forgiven in exchange for the developer's reconveyance of the remaining property to City. The City will grant the developer a 5-year option to reacquire the property. During the term of the option, the developer will pay, the following: all ID assessments (\$5,210,040), and CFD O&M assessments (\$166,670), and the developer will continue to maintain the property. If the option is exercised, the developer will receive a credit against the purchase price in the amount of the payments made under the option.

RECOMMENDATION: **Staff recommends Approval**

RESOLUTION NO. 2010.111

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT AND AMENDMENT TO DEVELOPMENT AND DISPOSITION AGREEMENT AND OTHER RELATED DOCUMENTS PERTAINING TO THE PIER AT TOWN LAKE, LLC.

WHEREAS, the City and Pier at Town Lake, LLC (“Developer”), are parties to a Development and Disposition Agreement dated as of July 6, 2006, and recorded July 31, 2006 as Instrument No. 2006-1019769, Official Records of Maricopa County, Arizona (the "Development Agreement"); and

WHEREAS, City and Developer now desire to amend the Development Agreement in certain respects as more fully set forth below, and to provide for an option for Developer to acquire certain real property that is the subject of this Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That the Mayor is authorized to execute a Settlement Agreement and Amendment to Development and Disposition Agreement, the Option Agreement and other documents referenced therein, and the Mayor is authorized to execute such other documents and to take such further actions as he may deem necessary or appropriate to implement and effectuate the terms of the Settlement Agreement; all such documents, including the Settlement Agreement, shall be in substantially the forms of such documents on file with the Clerk’s Office, with such changes and modifications as he may approve and which are not inconsistent with this Resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2010.

Signature page follows.

RESOLUTION NO. 2010.111

Hugh Hallman, Mayor

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Staff Summary Report



Council Meeting Date: 9/2/10

Agenda Item Number: _____

SUBJECT: Request approval of a resolution approving a Memorandum of Understanding between the Tempe Firefighter's Unit and the City of Tempe effective July 1, 2010 – June 30, 2013 and authorizing its execution.

DOCUMENT NAME: 20100902hrrb02 **FIRE FIGHTERS – MEET AND CONFER (0303-08-01)** Resolution No. 2010.107

COMMENTS: Resolution 2010.107 approves the execution of the Memorandum of Understanding (MOU) between the City and the Tempe Firefighter's Unit for the period July 1, 2010 – June 30, 2013.

PREPARED BY: Renie Broderick, Human Resources Manager (350-8407)

REVIEWED BY: Charlie Meyer, City Manager (350-8884)

LEGAL REVIEW BY: Andrew Ching, Assistant City Attorney (350-8575)

FISCAL NOTE: Decreases in wages and benefits in this MOU meet the City Council's directive for a 5% reduction for all employees and meet City budgetary goals for the 3 year term of the contract.

RECOMMENDATION: Recommend adoption of Resolution No. 2010.107

ADDITIONAL INFO: Authorized representatives of the City and the Tempe Firefighter's Unit met and conferred and have agreed to the terms of an MOU to be effective for the period July 1, 2010 – June 30, 2013. Approval of this resolution authorizes the City Manager to execute the MOU as an authorized representative of the City of Tempe.

RESOLUTION NO. 2010.107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, APPROVING THE MEMORANDUM OF UNDERSTANDING (“MOU”) BETWEEN THE TEMPE FIREFIGHTER’S UNIT AND THE CITY OF TEMPE FOR JULY 1, 2010 TO JUNE 30, 2013.

WHEREAS, authorized representatives of the City of Tempe and the Tempe Firefighter’s Unit met and conferred and have agreed to terms of a Memorandum of Understanding (“MOU”) between the City and the Firefighter’s Unit;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That the Memorandum of Understanding between the Tempe Firefighter’s Unit and the City of Tempe for the period of July 1, 2010 to June 30, 2013 is approved and that the City Manager is authorized to execute said document as the representative of the City of Tempe.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2010.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



**CITY OF TEMPE
FIREFIGHTERS' UNIT
MEMORANDUM OF UNDERSTANDING
(MOU)**

July 1, 2010 – June 30, 2013

As per Tempe City Code 2-400 Et Seq

TABLE OF CONTENTS

ARTICLE TITLE	PAGE
Preamble	3
Proviso for Existing Benefits	3
Rights of the Union	5
Rights of the Unit Employee	7
Wages	7
Deferred Compensation	9
Health Insurance	10
Medical and Physical Fitness Exams	11
Life Insurance	11
Pension Contribution	11
Written Reprimand Retention	12
Bidding on Vacancies	12
Call-Back Pay	12
Forty-Hour (40-Hour) Leave Accrual	12
Hours of Work / Working Conditions	13
Lateral Entry Program	13
Light Duty (Transitional Work)	13
Working Out of Classification	14
Bereavement Leave	14
Compassionate/Catastrophic Leave	14
Holiday Benefits	14
Industrial Leave	15
Medical Leave	15
Overtime	16
Tuition Reimbursement	17
Uniform, Clothing, and Equipment Allowances	17
Vacation Leave	17
Labor Management Committee	18
Diversity Recruitment	18
Procedure for Alleged Breach of MOU	18
Complete Agreement	20
Term and Effect	20

PREAMBLE

WHEREAS, the Parties, through their designated representatives, met and conferred in good faith pursuant to Tempe City Code 2-400 Et Seq in order to reach agreement concerning wages, hours, and working conditions of employees comprising the Firefighter Unit, and,

WHEREAS, the Parties hereby acknowledge that the provisions of this Memorandum are not intended to abrogate the authority and responsibility of City government provided for under the statutes of the state of Arizona or the Charter or Ordinances of the City of Tempe except as expressly and lawfully limited herein,

NOW, THEREFORE, having reached this complete agreement concerning wages, hours and working conditions for the term specified, the Parties submit this Memorandum to the City Council of the City of Tempe with their joint recommendation that body resolve to adopt its terms and take such other action as may be necessary to implement its provisions.

PROVISO FOR EXISTING BENEFITS

The Parties agree and Tempe City Code 2-400 Et Seq confirms that in the event of a conflict between the City of Tempe Personnel Rules and Regulations, attachments thereto, other Council approved programs, and this Memorandum of Understanding, the Memorandum of Understanding shall apply to the conflicting issue. If there is no conflict between the above referenced documents, the Parties are governed by the Personnel Rules and Regulations, attachments thereto and Council approved programs. In the event all such formerly referenced documents are silent on a particular issue, the City Manager and/or designee shall retain the right to exercise judgment on all such matters.

If, during the term of this Agreement, the City anticipates a substantive change in the benefits not included in this MOU, but provided to Unit Members through the City of Tempe Personnel Rules and Regulations and attachments thereto, and other Council approved programs, the City shall meet with the Union, explain the reasons for the change, and discuss the potential impact of such changes.

The purpose of the provisions of this Article is to continue to provide current financial benefit levels, as that terminology is customarily defined as part of the employees' overall compensation package, while simultaneously not restricting the authority of management in the administration and management of such benefits. As an example, firefighters on a 56-hour workweek will continue to be provided the benefit of vacation accrual as provided in the City Personnel Rules and Regulations; however, how approval is obtained to utilize such time shall remain the determination of the City. Similarly, these provisions do not guarantee a firefighter a particular work shift or work assignment; nor shall they guarantee a firefighter a right to overtime.

The referencing of the Personnel Rules and Regulations and other such policies and procedures herein does not make them an extension of this Memorandum of Understanding. Therefore, the process for an alleged breach of this MOU as contained in Tempe City Code 2-400 Et Seq or any procedure agreed upon by the Parties to resolve allegations of a breach of this MOU, shall not be applicable.

Any benefit provided by outside vendors (such as health insurance), and subject to cost increases outside the City's control, may cause a re-opening of this contract for purposes of the affected benefit only. This negotiation process will exclude fact-finding.

Restoration of Pay/Benefit Reductions:

- At the end of fiscal year 2010-11, when actual General Fund revenue information becomes available, actual General Fund Revenues will be compared to budgeted 2010-11 General Fund revenues (as presented in Schedule C of the City's Annual Budget).
- If the amounts of City Sales Tax and Total General Fund Revenues (excluding property taxes) reported and collected during the year exceed the amounts budgeted for fiscal year 2010-11 by at least 3%, but not more than 6%, then one-half of the value of benefits forfeited by the Union to reach their 5% pay/benefits reductions (one-half of approximately \$606,000) shall be restored to the Members, in a manner determined by the Union President. The benefit restoration will be effective for the first full pay period beginning in July 2011. In addition, if the 3% trigger is reached, Members will receive a bonus check equal to one-half of the "Pay Reduction" amounts deducted from their paychecks from January through June 2011, as described in Article 3, section 5 of this MOU.
- If the amounts of City Sales Tax and Total General Fund Revenues (excluding property taxes) reported and collected during the year exceed the amounts budgeted for fiscal year 2010-11 by at least 6%, then the entire value of benefits forfeited by the Union to reach their 5% pay/benefits reductions (approximately \$606,000) shall be restored to the Members, in a manner determined by the Union President.. The benefit restoration will be effective for the first full pay period beginning in July 2011. In addition, if the 6% trigger is reached, Members will receive a bonus check equal to all of the "Pay Reduction" amounts deducted from their paychecks from January through June 2011, as described in Article 3; section 5 of this MOU.
- Following is a list of the benefits forfeited by the Union to reach their 5% pay/benefit reductions.
 - Eliminate the City's \$50 per pay period contribution to deferred compensation \$182,000
 - Eliminate the City's \$25 per pay period contribution to the Fire Retiree Health Insurance Trust Fund \$91,000

- Reduce the annual Uniform Allowance from \$750 to \$150 and eliminate the supplemental payment \$105,000
 - Eliminate the 6-hour Special Holiday Leave \$38,000
 - Reduce each Member's pay by \$41.92 per pay period (savings equal to \$52.65 per pay period) \$190,000
- For purposes of comparing budgeted to actual revenues, one-time (non-recurring), unanticipated revenues exceeding \$350,000 that are received in fiscal year 2010-11 will not be counted as actual revenue, upon mutual agreement of the City Manager and Union President that the revenues do not represent recurring revenues.

Definitions

For the purpose of this Memorandum of Understanding, the following definitions shall apply:

- “City” shall mean Tempe City government
- “Union” shall mean United Phoenix Firefighters Association Local 493, Tempe Chapter
- “Unit Member” shall mean a City employee identified in the Tempe City Code Section 2-401.

**ARTICLE 1
RIGHTS OF THE UNION**

1. During the term of this Memorandum of Understanding, union officials will be released from duty with full pay when directed by the City to participate in a meeting with the City and/or City representatives. Union officials will also be released from duty with full pay to participate in any committee or task force established by this Memorandum of Understanding.

2. Employees who participate in meetings covered by this Article at times other than their normal work shift shall not receive compensation and said hours are not considered time worked for the purpose of computing overtime.

3. Union representatives shall be released from duty with full pay to provide employee representation in a grievance hearing, disciplinary meeting or any other meeting that may lead to disciplinary action with an employee.

4. During the term of this Agreement, the City will provide up to 2912 hours annually to be utilized by the Union President and business agent for the purpose of conducting union/management related business. The City will allow 1,000 hours for duly elected officers, trustees and members of the Union. The time utilized must be authorized in advance by the Chief or his/her designee. The Union President will be

responsible for complying with the following guidelines:

- Time will not be authorized if it results in overtime for the Union member utilizing the time or if it creates an operational problem for the Department.
- The activity to be engaged in cannot create a conflict of interest between the Union and the City of Tempe.
- The time used must be considered in accordance with the overall mission and values of the City and must not negatively impact upon the relationship between the City and the Union.

5. It is understood and agreed that meetings such as those mentioned above shall be scheduled in such a manner as to minimize disruptions to service and to minimize overtime.

6. There shall be no use of City paid time for Union-related activities except as expressly authorized by this Article. The Department shall maintain procedures to administer and control use of City paid time in conformity with the provisions of this Article.

7. The City shall furnish monthly, or as requested, a listing of Union members on City payroll deduction for union dues during the term of this agreement. Included with the employee's name shall be the employee's current job assignment. An employee who wishes for his/her mailing address to be released to the Union may so designate to the City and this information will be included. The employee's authorization shall continue until revoked in writing by the employee. The Union agrees to use this list solely for purposes of communicating with Union members and will not share this information with other individuals or organizations.

8. A. The City agrees, in conformity with Tempe City Code Section 2-403, to deduct an amount specified in writing by the employee and transmit such amount to the Union each pay period. Such deductions shall be made only when the employee's earnings for such pay period are sufficient after other legally required deductions are made. The Union reserves the right during the term of this agreement to increase the amount withheld for all employees pursuant to a generalized dues increase.

B. The City assumes no liability on account of any action taken pursuant to this section (Section 8). The Union agrees to indemnify, defend, and hold harmless the City, its agents, employees, and officials for taking action in conformance with this section.

C. Employees may initiate, discontinue or amend union payroll deductions by written authorization in accordance with Tempe City Code section 2-403 at any time during the term of this Memorandum of Understanding.

9. There shall be no implied rights beyond the specific terms of this Memorandum of Understanding.

**ARTICLE 2
RIGHTS OF THE UNIT EMPLOYEE**

1. Representation

Unit Members have the right to be represented by the Union at any Meeting, which could or will result in disciplinary action being taken against that Member. The Unit Member will have two and one-half (2 1/2) hours to obtain Union representation from time of notification of meeting or a Union representative will be contacted with at least two and one-half (2 1/2) hour's notice to be present at the meeting with the Member. Upon notification the member will be made aware of the general reason for the meeting.

**ARTICLE 3
WAGES**

Any authorized numerical or percentage change to any wage or benefit covered by this MOU during the term of this MOU will result in the issuance of an amended MOU, which will accurately describe then-current wages and benefits.

1. Salary

The pay plan provided below will be maintained for fiscal years 2010-11 and 2011-12, with movement through the annual steps.

Beginning in fiscal year 2012-13 (the final year of this MOU), Human Resources will conduct a survey of the salaries paid in established market cities for classifications comparable to those held by Unit Members, to determine the "75th percentile" of the salary maximums paid for each classification. The 75th percentile shall be calculated as the average of the second and third highest maximum salaries budgeted for fiscal year 2012-13 in the other seven cities included in the City's market study. Budgeted partial-year increases to maximum salaries that are scheduled to take effect between July 1, 2012 and January 31, 2013 in the market cities will be considered, in the market study, to be full-year increases. Partial-year increases scheduled to take effect after January 31, 2013 will not be considered in the market study. Movement through the ranges shall also be continued during this final year of the MOU.

The market study shall be completed by August 1, 2012, and adjustments to salary ranges resulting from the market study shall be made effective, retroactively, to the start of first full pay period beginning in July 2012.

	2010 - 2012 Annual Salary	Medics Annual Salary
Firefighter		
Assigned as Recruit – 40 Hours	\$40,160	
Upon graduation from Academy	\$44,324	
1 Years from Academy Graduation	\$47,666	\$52,433
2 Years from Academy Graduation	\$50,049	\$55,054
3 Years from Academy Graduation	\$52,552	\$57,807
4 Years from Academy Graduation	\$55,179	\$60,697
5 Years from Academy Graduation	\$57,938	\$63,732
6 Years from Academy Graduation	\$59,838	\$65,822

Upon assignment to Paramedic, a Firefighter will receive 10% above his or her current salary.

Members who are certified paramedics, but are not assigned as department paramedics, will receive assignment pay equal to 5% above his or her salary.

	2010 – 2012 Annual Salary
Fire Engineer Upon Promotion	\$66,057
Fire Engineer Medic Upon Promotion	\$72,663
Fire Captain	\$76,567
Fire Captain Medic	\$84,224
Fire Captain (40-Hour Assignment)*	\$83,458
Fire Captain Medic (40-Hr Assignment)*	\$91,804

* (See Overtime article 21)

2. Special Operations Pay:

\$246.07/ month

Special Operations Pay will be increased by the weighted average percentage of any Cost of Living (COL) or Market Adjustment given between July 1, 2010 and June 30, 2013.

Any unit member assigned to the dive team will receive special operations pay. This would not be additional pay for members who otherwise qualify for special operations pay.

Any person assigned to a special operations company will receive special operations pay after six (6) months of active duty on the company, receiving ongoing education and experience, unless they have the necessary technician or equivalent certification in which case, they will receive pay immediately when assigned.

3. Productivity Enhancement Pay:

In August and the second paycheck in December each year, Unit Members, who have completed a minimum of five (5) years of service with the City of Tempe, will receive Productivity Enhancement Pay (in two semi-annual payments) according to the following plan.

A member may elect to receive his/her August Productivity Enhancement

check in the preceding June if retiring or entering the DROP in June. If the member retires or leaves employment in the month of June he/she will receive the August and December Productivity Enhancement Pay for the following fiscal year.

Productivity Pay will be based on a member's years of service and base pay, effective as of the first day of the pay period beginning in July of each year.

Years of Service	% of Base Pay
5-9	2%
10-14	4%
15-19	6%
20-24	8%
25+	10%

Salaries are based upon the pay plan consistent with this MOU.

For Productivity Enhancement Pay, years of service will be considered accredited service with the Arizona Public Safety Personnel Retirement System (PSPRS).

4. Bilingual Pay

Unit Members who successfully pass the required competency examination for entry into the City's Bilingual Pay Program will be eligible to receive additional compensation for significant interaction of \$150 per month.

5. Pay Reduction

Each Member shall have his or her pay reduced by \$41.92 during each pay period, effective July 1, 2010. This reduction in pay will impact Public Safety Retirement System contributions, income tax withholdings and Social Security /Medicare withholdings, but shall not affect any other benefits provided for in this MOU. In lieu of this pay reduction, Members who participate in the City's health insurance plan may elect to contribute an additional \$52.65 for their health insurance coverage each pay period (in addition to employee insurance contributions normally withheld).

ARTICLE 4 DEFERRED COMPENSATION

1. Unit Members shall not receive any deferred compensation contributions by the City (other than those related to D.R.O.P. provisions contained in Article 8 of this MOU), but may participate in the City's deferred compensation program and defer portions of their pay into the plan, as allowed in plan documents.

2. Members are not eligible to participate in the City's Mediflex Program.

ARTICLE 5 HEALTH INSURANCE

1. An Employee's Health Insurance Evaluation Committee shall be established to examine issues related to the provisions and maintenance of health insurance for Unit Members and other City employees.

The Union shall be entitled to appoint a Unit Member to the Health Insurance Evaluation Committee related to the provision and maintenance of health insurance for Unit Members, including the reviewing of the Request for Proposal, the evaluation of the submitted proposals, and the recommendation of the preferred provider.

2. The City shall provide health insurance for members retiring from the City pursuant to the rules and procedures for retirement as defined under the Public Safety Retirement System and the City of Tempe policies and procedures regarding retiree health insurance as may be amended.

3. The City shall continue to process the Members' \$25 per pay period contributions into a fund for the purpose of providing a monthly stipend for retirees to apply to the cost of their health insurance upon retirement, unless directed by the Union to reduce or discontinue the processing of these contributions.

4. The City will continue to support the ongoing administration of the Retiree Health Insurance Trust Fund. The Trust Fund shall be maintained and initiated by a Board of five (5) individuals selected as follows:

- A. Two (2) individuals shall be appointed by the City Manager
- B. Two (2) individuals shall be appointed by the United Phoenix Firefighters – Tempe Chapter Local 493; and
- C. One (1) individual, who shall serve as Chairperson shall be selected by the four appointees selected above.

The fund shall be invested in prudent, protected investments in compliance with state and federal laws. The fund managers may seek outside advice and consultation as they deem appropriate and are authorized to secure a formal trust instrument. The trust instrument and any amendments thereto must be specifically approved by the City Manager and the Association before they can become effective.

Any implementation of this Article shall be consistent with current and future IRS and/or PSRS rulings and all federal, state, and local laws.

6. The City assumes no liability on account of any action taken pursuant to this Article. The Union agrees to indemnify, defend, and hold harmless the City, its agents, employees, and officials, for taking action in conformance with this Article.

**ARTICLE 6
MEDICAL AND PHYSICAL FITNESS EXAMINATIONS**

1. During the term of this Memorandum of Understanding the Fire Department will schedule members for a medical and physical fitness evaluation yearly. The medical and physical fitness evaluation will be of the same design and quality as the product which is in place through the Phoenix Fire Department's Health Center in June of 2009, and in keeping with the intent of National Fire Protection Association 1582.

2. Members retiring after July 2007 will be able to continue to receive their annual physicals in accordance with paragraph 1 of this article. The City will provide this service at no expense to the individual. This benefit is offered as a pilot program that is effective during the term of this contract only.

**ARTICLE 7
LIFE INSURANCE**

1. The City will continue the existing off-the-job and on-the-job life and dismemberment insurance coverage. The policy shall provide a benefit for each member equal to the member's base annual salary. Additionally, the City will provide a death benefit of \$75,000. The City will continue to provide to each member a \$250,000 death benefit covering the member's commutation to and from his/her City work location. This policy will be consistent with the City's current group insurance, and will cover the Unit Member's commute for up to two (2) hours before his/her shift begins and two (2) hours after his/her shift concludes.

2. In the event of the death of a member while commuting to or from his/her work location, the City will continue to pay the full health insurance premium for the spouse, domestic partner, and all eligible dependents, in accordance with City policy.

**ARTICLE 8
PENSION CONTRIBUTION**

Beginning July 1, 2007, Members participating in the D.R.O.P. program will receive City contributions into their deferred compensation accounts, each pay period, equal to the reduction of the City's *Total Percentage Contribution Requirement* that is based on those employees' participation in the DROP program, but, in no case shall the City's contribution exceed 24.21%. The *Total Percentage Contribution Requirement* (Employer rate prior to Fire Insurance Tax offset) is documented on the Contribution Transmittal Form sent to PSRS by the City each pay period. If, during the term of this contract, State legislation is passed that would require cities to make contributions to the PSRS for Unit Members participating in the DROP program, either party can have the MOU re-opened for purposes of clarifying this article by submitting a written request to the other party.

ARTICLE 9
Written Reprimand Retention

Records retention will be performed according to City policy.

ARTICLE 10
BIDDING ON VACANCIES

1. The Parties acknowledge that the Fire Department has historically utilized a procedure whereby employees bid on work locations based upon the employee's length of service since date of hire as a firefighter with the City. Although this process oftentimes meets the needs of both the Department and the Employee, the Parties agree that this process in no way limits the authority of the Fire Chief, or his designee, to make assignments to meet the operational needs of the Department.

This process will also be used in the event of any layoffs within the Fire Department.

Note: A member is considered off probation one (1) year after graduation from the Phoenix Fire Academy or equivalent.

2. In the event that the Fire Chief exercises his prerogative to utilize a different method for allocating work assignments other than allowing employees to bid as acknowledged above in 1., the Union President has the right to make this issue an agenda item for discussion in the Labor/Management Committee, or the Employee may decide to appeal through the MOU Breach Procedure.

3. The Fire Chief shall make reasonable efforts to allocate work assignments and promotions expeditiously. The Fire Chief retains the right to make reassignments to meet the operational needs of the Department.

ARTICLE 11
CALL-BACK PAY

Employees called back to work after leaving City facilities upon completion of their regular shift shall receive a minimum of two (2) hours pay at one and one-half (1½) times their regular rate of pay. They will also receive thirty (30) minutes travel time at a rate of one and one half (1 1/2) times their hourly rate if working over 2 hours. Travel time will be included in the minimum two hours when member has worked less than two (2) hours.

ARTICLE 12
FORTY-HOUR (40) LEAVE ACCRUAL

The Parties recognize that firefighters accrue vacation and medical leave at a higher rate than other City employees because of their fifty-six (56-hour) shift to which they are normally assigned. When the Fire Chief reassigns a firefighter, or a firefighter

is selected into a position with a forty- (40) hour work schedule, the firefighter will begin accruing vacation and medical leave at the same rate as other forty- (40) hour per week City employees. Furthermore, the firefighter's current accrual balances will be prorated as if it had been accrued based upon a forty- (40) hour workweek. This article excludes light duty assignments of less than ninety (90) calendar days.

When a firefighter on a forty- (40) hour workweek returns to the regular fifty-six (56-hour) workweek, vacation and medical leave will be in accordance with other fifty-six (56-hour) workweek employees, and the firefighter's leave balance will be prorated accordingly. This is not to be confused with article 14 "Light Duty".

ARTICLE 13 HOURS of Work / Working Conditions

1. The duty hours for Unit Members assigned to Emergency Services shall continue to average fifty-six (56) hours per week. Shifts shall continue to be twenty-four (24) hours in duration, except Unit member's assigned to forty hour work week.

2. For the 6.24 hours per pay period (commonly referred to as "FLSA hours") that are considered overtime in the 56-hour per week schedule, Unit Members will be paid two (2) times their regular rate of pay.

ARTICLE 14 LATERAL ENTRY PROGRAM

When an employee of the City of Tempe outside the Fire Department wishes to become an employee of the Fire Department in a position covered by this Memorandum of Understanding, the following provisions shall apply:

1. The Employee moving into the Fire Department shall be paid a rate of pay as determined by the Fire Chief with the approval of the City Manager. Prior to the final determination by the Fire Chief, he shall review the intended rate of pay with the Association President.

2. The employee will receive leave accrual based upon continuous service with the City of Tempe. Said employee shall retain previously accrued unused leave balances.

3. For purposes of bidding on company-based assignments and/or available vacation slots, seniority will be based upon continuous service within the Fire Department.

ARTICLE 15 LIGHT-DUTY (TRANSITIONAL WORK)

Any member assigned to light duty will be placed on a forty- (40) hour workweek schedule. All pay and leave accrual remains the same as if still on a 56 hour work week if the inability to perform regular duty is work related. If the inability to perform regular duty is not work related, all pay and leave accrual will remain the same for a period of ninety (90) days, after which the Member will stop receiving FLSA overtime premium

pay only.

**ARTICLE 16
WORKING OUT OF CLASSIFICATION**

An employee will be paid for temporarily working out of his/her assigned classification for anytime worked four (4) hours or greater. Pay will be at the hourly rate of the base pay of the position being filled or 5% above their normal base rate, whichever is greater.

**ARTICLE 17
BEREAVEMENT LEAVE**

Members shall receive up to five (5) working days leave with pay not chargeable to medical or vacation leave for immediate family members. Members shall receive up to three (3) working days leave with pay not chargeable to medical or vacation leave for non – immediate family members. Two (2) additional working days shall be granted for out of state travel for non – immediate family members.

**ARTICLE 18
COMPASSIONATE/CASTROPHIC LEAVE**

Compassionate/Catastrophic Leave will be administered in accordance with the City's Personnel Rules and Regulations. Union Members are eligible for up to 224 hours of Catastrophic Leave.

**ARTICLE 19
HOLIDAY BENEFITS**

In lieu of the holidays set forth below, employees working the fifty-six (56-hour) workweek are paid for 11.2 hours at one and one-half (1½) times their hourly rate of pay.

New Year's Day
Martin Luther King's Birthday
President's Day
Cesar Chavez Recognition Day
Independence Day
Memorial Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday following Thanksgiving Day
Christmas Day

.Members are not eligible for Special Holiday Leave unless the benefit restoration conditions, outlined in the Proviso for Existing Benefits Section of this MOU, are met and the benefit is restored.

4 Personal Leave Days:

For the period July 1, 2010 – June 30, 2011, all four (4) personal leave days will be paid out as per the City's Personnel Rules and Regulations at 11.2 hours of pay at the overtime rate and cannot be used as leave time.

For the period July 1, 2011 – June 30, 2012, each Unit Member shall have the opportunity of selecting 11.2 hours of pay at the overtime rate or twenty-four (24) hours of personal leave for up to two (2) personal leave days. At least two (2) personal leave days shall be paid out as per the City's Personnel Rules and Regulations at 11.2 hours of pay at the overtime rate and cannot be used as leave time.

For the period July 1, 2012 – June 30, 2013, each Unit Member shall have the opportunity of selecting 11.2 hours of pay at the overtime rate or twenty-four (24) hours of personal leave for all four (4) personal leave days.

ARTICLE 20 INDUSTRIAL LEAVE

Members are covered by the City under the Arizona State Worker's Compensation Act against injuries, illness or disease occurring in the course of City employment.

If a member is absent from work as a result of an injury, illness, or disease that is covered under the Arizona State Worker's Compensation Act, the absence is considered industrial accident leave. For absences of one (1) to seven (7) calendar days, Members are compensated 100% of their regular base rate of pay without loss of any medical or vacation leave. For absences over seven (7) days, Members are compensated 95% of their regular biweekly base rate of pay from the City for up to twelve (12) months. Beyond twelve (12) months, employees are compensated in accordance with the Arizona Worker's Compensation Act. Members may voluntarily supplement their Worker's Compensation benefit with accrued medical and vacation leave. The amount that may be supplemented is the difference between the Worker's Compensation benefit and the employee's net take-home pay, plus voluntary payroll deductions. The amount of a member's Worker's Compensation benefit shall not exceed his/her regular base rate of pay.

ARTICLE 21 MEDICAL LEAVE

1. Members on 56-hour schedules shall accrue 11.2 hours of medical leave per month. Maximum accrual of Medical leave shall be unlimited. In October of each year, the Member may elect for the following year to cash out medical leave in excess of 672 hours at a rate of 25% or let the Medical leave accrue above the 672 hours.

2. Members retiring from the City in good standing shall receive 60% of all accrued Medical leave in the form of cash or vacation leave. The Member will be reimbursed at an hourly rate equal to the Member's hourly rate at time of retirement or highest paid hourly rate within the last twelve (12) months prior to retirement. Highest

paid rate must be for a position held for at least six months.

3. Medical leave may be used for illness or physical incapacity of the employee, medical, dental or psychological appointments during working hours. Medical leave may also be used for any of the above reasons for an immediate family member.

4. Any member who has had an extended injury or illness for longer than twelve (12) shifts will have their sick leave retroactively charged to them based on a forty- (40) hour work week.

5. Unit Members with 17 years of service in the PSRS and at least 1,000 hours of accrued medical leave may make a one-time revocable election to have additional medical leave that the Members earn paid to them as salary for a maximum of six consecutive years. Members who have accumulated between 1,000 and 1,400 hours of accrued medical leave at the time of election will be paid at a rate equal to 60% of their base hourly rate for each hour of medical leave that would have been earned after the election. Members who have over 1,400 hours of accrued medical leave at the time of election will be paid at a rate equal to 100% of their base hourly rate in lieu of additional medical leave. Members making this election can continue using their accrued medical leave. This is not to be confused with medical leave cash-out, as stated in article 20, items 1 and 2.

Note: Benefits are based upon a 56-hour workweek unless unit member is assigned to a forty hour assignment position.

ARTICLE 22 OVERTIME

1. Unit Members who are assigned to be on duty beyond their scheduled work shift shall be compensated for such assigned work at one and one-half (1 ½) times their regular rate after the first seven (7) minutes of assigned and worked overtime calculated to the nearest quarter hour. Non-Shift work will be paid in accordance with number 5 of this article.

2. Allocations and opportunities for overtime shall be discussed in the Labor/Management Process.

3. The City and the Fire Chief have the exclusive right and authority to schedule work and/or overtime work as required in the manner most advantageous to the City subject to the express terms of this Memorandum.

A. Employees can only work overtime with the advance authorization of the Fire Chief or his designee.

B. Overtime will not be paid twice for the same hours worked.

4. Partials greater than eight (8) hours will be constant staffed.

5. Any Member working any special event, fire watch, or any event other than their regular shift work or attending any required training will be paid overtime at thei

r regular salary based on a 40 hour work week. Holdovers, partials and call backs are considered a normal fifty six (56) hour work week and will be paid 1 ½ times their regular rate based on a fifty six (56) hour work week.

6. All overtime for a forty hour assignment captain will be based on a forty hour work week, including shift work.

ARTICLE 23 TUITION REIMBURSEMENT

Members will receive tuition reimbursement up to a maximum of \$5,000 within any calendar year as long as they are a full-time employee. Tuition Reimbursement includes the cost of tuition, required textbooks, supplies and related fees. The City of Tempe Tuition Reimbursement Policy Guidelines and Section 127 of the IRS Tax Code will dictate the requirements for receiving Tuition Reimbursement.

ARTICLE 24 UNIFORM, CLOTHING AND EQUIPMENT ALLOWANCES

Each year Members will receive an allowance of \$150.00 for purchase of uniforms, in accordance with Department policy. All Members will be required to meet Department uniform/dress code standards.

ARTICLE 25 VACATION LEAVE

1. Employees on a fifty-six (56-hour) work schedule will accrue vacation in accordance with the following schedule.

0 to completion of 5 years' of City service	11.2 hours per month
After completion of 5 years, but less than 10 years	14.0 hours per month
After completion of 10 years, but less than 15 years	16.8 hours per month
After completion of 15 years, but less than 20 years	20.54 hours per month
After completion of 20 years	22.4 hours per month

Maximum accrual for fifty-six (56-hour) employees shall be 440 hours.

For vacation leave accrual, years of service will be considered accredited service with the Arizona Public Safety Personnel Retirement System (PSPRS).

2. To the extent permitted by current and future IRS and/or PSRS rulings, and all federal, state and local laws, Unit Members may sell up to forty (40) hours of vacation leave in excess of one hundred and fifty (150) hours for those employees working a forty (40) hour workweek or two hundred and ten (210) hours for those employees working a fifty-six (56) hour workweek. This benefit shall not exceed a total of forty (40) hours and may be sold as follows: twenty (20) hours on the last paycheck in November and/or May of the MOU year. No employee shall be permitted to sell back accrued vacation leave if the member has less than one hundred fifty (150) hours of vacation leave for a forty- (40) hour member and two hundred ten (210) for a fifty-six (56) hour

member.

3. Unit Members who have reached their maximum vacation accrual limit and have attained a minimum of seventeen (17) years of service in the P.S.R.S., may make a one-time revocable election to have the additional vacation leave that the member earns paid to them on a per paycheck basis for a maximum of six (6) consecutive subsequent years. Members making this election can continue using their accrued vacation.
4. A member's vacation accrual after reaching 20 years of service in the PSRS becomes unlimited. After utilizing item 3 of this Article.
5. Upon separation of employment unit members are cashed out at 100% of all vacation hours.

Any implementation of this Article shall be consistent with all federal, state and local laws.

ARTICLE 26 LABOR MANAGEMENT COMMITTEE

1. There shall be a Labor Management Committee consisting of City employees: four (4) representatives of the Union and four (4) representatives of the Fire Department. The purpose of the Committee is to facilitate positive labor-management relationships by providing a forum for the free discussion of mutual concerns and problems, which may include discussion of the implementation of major, new department programs or substantial modifications of existing major department programs that will have a significant impact on service delivery, work schedules, or duties.
2. The Committee shall meet quarterly at mutually scheduled times, and at any other mutually scheduled time.

ARTICLE 27 DIVERSITY RECRUITMENT

It is the goal of the City, the Fire Department, and the Union to increase the recruitment of qualified, diverse individuals within the Tempe Fire Department. The City shall distribute to the United Phoenix Firefighters checks for \$15,000 in July of 2010, 2011 and 2012 to be used solely for diversity recruitment purposes.

The contracts for the above services and performance standards shall be approved by the City Manager.

ARTICLE 28 PROCEDURE FOR ALLEGED BREACH OF MOU

To further enhance and outline the City of Tempe's Claim of Breach Process, the following steps will be used for Section 2-426, J1-3.

If either a designated employee organization or employee claims that the Memorandum of Understanding has been breached, the Parties alleging the breach shall:

1. First, with the objective of resolving the alleged breach, discuss the alleged breach directly with the immediate supervisor outside the designated employee group. If the alleged breach is not resolved with ten (10) days, a written allegation of the alleged breach may be filed with the immediate supervisor, with a copy to the Deputy Human Resources Manager. To be considered, the alleged breach must be submitted within 45 days after the alleging party first became aware of or recognized a potential breach, and contain, at a minimum, the specific contractual provision(s) of this Memorandum of Understanding that is/are alleged to have been violated with facts constituting the alleged violation(s) and relief sought.

2. If, after ten (10) days from the date that the alleged breach was filed with the immediate supervisor, the alleged breach is not resolved, the alleged breach may be filed with the Fire Chief. The Fire Chief or his designee shall schedule a meeting in an attempt to resolve the alleged breach no later than ten (10) days following receipt of the written alleged breach. Each party shall be entitled to bring documents and/or witnesses (at the expense of the Party bringing the witness(es) to the meeting in order to present evidence on their behalf. Each party shall have the right to cross-examine the witness(es) brought by the other party.

3. The Fire Chief or Assistant Fire Chief will have ten (10) days to render a decision. If the alleged breach is not resolved with the Fire Chief's decision, the alleged breach will be submitted to the City Manager.

4. The City Manager has the right to require fact-finding or mediation to resolve the alleged breach. The City Manager shall submit a written response within ten (10) days following:

- A. The receipt of the written alleged breach, or
- B. The written decision of the mediator or fact-finder.

5. If the Parties are still unable to resolve the matter after the City Manager's review, then all written or relevant materials shall be submitted for resolution to the Mayor and Council within ten (10) days of receipt of the City Manager's written response. The decision of the Mayor and Council shall be consistent with the City Charter, and final and binding upon the Parties and employees.

6. The Parties can mutually waive all time frames listed above.

7. The City Manager, in consultation with the Union President, shall determine the selection process, the format of the meeting, the sharing of costs, and any other issue(s) that may result in utilizing the services of a mediator or fact-finder.

Definitions:

"Days," for purposes of this article, shall mean Monday through Friday, not including holidays observed by the City.

**ARTICLE 29
COMPLETE AGREEMENT**

The Parties agree that this is the complete and only agreement between the Parties once approved by the City Council. Each party has negotiated on all issues identified for negotiations and such negotiations have led to this agreement. No additional negotiations will be conducted on any item, whether contained herein or not, except by mutual agreement of the Parties. This Agreement replaces any and all previous agreements between the Parties.

**ARTICLE 30
TERM AND EFFECT**

This Memorandum shall become effective July 1, 2010, and remain in full force and effect until June 30, 2013, in accordance with the provisions of Tempe City Code section 2-400 et seq. This Memorandum constitutes the total and entire agreement between the parties and no verbal statement shall supersede any of its provisions. Only by mutual consent of both parties may this agreement be reopened.

This Memorandum constitutes the total and entire agreement between the Parties and no verbal statement shall supersede any of its provisions.

IN WITNESS WHEREOF, the Parties have set their hands this

_____ day of _____, 2010.

CITY OF TEMPE, a municipality

City Manager

Firefighters Unit Representative

APPROVED AS TO FORM:

City Attorney