CITY COUNCIL REGULAR MEETING NOTICE & AGENDA
Tuesday, March 20, 2012
7:00 PM
CITY COUNCIL CHAMBER

MUNICIPAL OFFICE COMPLEX
8401 W. MONROE STREET
PEORIA, AZ 85345

CITY COUNCIL:

Mayor
Bob Barrett

Palo Verde District
Ron Aames, Vice Mayor

Acacia District
Tony Rivero

Ironwood District
Dave Pearson

Mesquite District
Cathy Carlat

Pine District
Carlo Leone

Willow District
Joan Evans

City Manager
Carl Swenson

CONVENE:
PLEDGE:
ROLL CALL:

FINAL CALL TO SUBMIT SPEAKER REQUEST FORMS:

CONSENT AGENDA

CONSENT AGENDA: All items listed with "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

CONSENT – New Business:

1C Minutes

Discussion and possible action to approve the following minutes:

February 21, 2012 Special Meeting and Study Session
February 21, 2012 Regular Meeting

2C Appointments, Boards and Commissions

Discussion and possible action to approve the recommendation from the Council Subcommittee on Boards and Commissions Appointments pertaining to the following appointments, and adopt the Resolutions as presented:

Adopt **RES. 2012-20** appointing William Bercu as a regular member to the Board of Adjustment,

Adopt **RES. 2012-21** appointing Cecil Daniels as an alternate member to the Board of Adjustment,

Adopt **RES. 2012-22** appointing Reed Webber as a regular member to the Citizens Commission on Salaries for Elected City Officials,

Adopt **RES. 2012-23** appointing Karen McDaniel as a regular member to the Library Board,

Adopt **RES. 2012-24** appointing Matthew Porter as a regular member to the Municipal Development Authority,

Adopt **RES. 2012-25** and **RES. 2012-26** appointing and reappointing Mary Truhler as a regular member to the Parks and Recreation Board,

Adopt **RES. 2012-27** appointing Edward Ryan as a regular member to the Public Safety Personnel Retirement System – Fire,

Adopt **RES. 2012-28** appointing Edward Ryan as a regular member to the Public Safety Personnel Retirement System – Police, and

Adopt **RES. 2012-29** and **RES. 2012-30** appointing and reappointing Dominique Peterson as a regular member to the Youth Advisory Board.

3C **Intergovernmental Agreement, State of Arizona, Department of Transportation, New River Trail; Northern Avenue to Olive Avenue Trail and Underpass**

Discussion and possible action to approve an Intergovernmental Agreement with the State of Arizona, Department of Transportation, for the design, construction, and maintenance obligations relating to a proposed multi-use trail path from Northern Avenue to Olive Avenue, located along the west bank of New River and an underpass at the Northern Avenue Bridge at New River.

4C **Contract Amendment, Premier Engineering Corporation, New River Trail; Olive Avenue Underpass, Olive Avenue and New River**

Discussion and possible action to: (a) award Contract Amendment No. 7 to Premier Engineering Corporation (Premier) in the not-to-exceed amount of $10,075 for additional construction administration and survey services; and (b) approve a budget transfer in the amount of $12,075 to fund the contract amendment with Premier, miscellaneous connection charges and other direct city expenses (Solicitation No. P04-0010, Project No. CS00142, LCON 01704F).

5C Citizens Commission on Salaries for Elected City Officials Report and Recommendation

Discussion and possible action to accept the recommendation of the Citizens Commission on Salaries for Elected City Officials.

6C Budget Adjustment, Increased Fuel Costs, Fleet Services

Discussion and possible action to approve a budget adjustment in the amount of $295,000 from the General Fund Non-Departmental Contingency Account to the Fleet Services Division Unleaded and Diesel Accounts.

7C Budget Transfer, Self-Insurance Workers' Comp Fund, Exemption from Requirement to Post Security Policy

Discussion and possible action to: (a) approve a budget transfer in the amount of $1,050,000 from the Insurance Reserve Fund to the Self-Insurance Workers' Comp Fund for the purposes of compliance with the Industrial Commission of Arizona's "Exemption from Requirement to Post Security" policy; and (b) approve a budget appropriation transfer in the amount of $565,306 from Insurance Reserve Fund to the Workers Compensation Self Insurance Fund.

8C Easement, Salt River Project, 83rd Avenue and Olive Avenue

Discussion and possible action to adopt **RES. 2012-32** authorizing the execution of an Overhead and Underground Power Distribution Easement to Salt River Project for the relocation and maintenance of an overhead utility line associated with the construction of roadway improvements at 83rd Avenue and Olive Avenue.

9C Easement, Salt River Project, 75th Avenue and Thunderbird Road Intersection Widening Project

Discussion and possible action to adopt **RES. 2012-31** authorizing the execution of an Irrigation Easement to Salt River Project for the relocation and maintenance of irrigation facilities associated with the construction of the 75th Avenue and Thunderbird Road Intersection Widening Project.

10C Replat, Blackstone at Vistancia Parcel B3, Blackstone Drive and Lone Mountain Road

Discussion and possible action to approve a Replat of Blackstone at Vistancia Parcel B3, located on Blackstone Drive and Lone Mountain Road, subject to stipulations.

REGULAR AGENDA

NEW BUSINESS

11R Public Hearing-Liquor License, Lantern, 10738 N. 75th Avenue, Suite B-7

PUBLIC HEARING: RE: A New Restaurant Liquor License (Series 12) for Lantern, located at 10738 N. 75th Avenue, Suite B-7, Linda Quach, Applicant, LL#20004652.

Staff Report:
Open Public Hearing:
Public Comment:
Close Public Hearing:

COUNCIL ACTION: Discussion and possible action to recommend approval to the State Liquor Board for a New Restaurant Liquor License (Series 12) for Lantern, located at 10738 N. 75th Avenue, Suite B-7, Linda Quach, Applicant, LL#20004652.

12R Agreement, Waste Management of Arizona, Solid Waste Disposal and Processing Recyclable Materials

Discussion and possible action to approve an agreement with Waste Management of Arizona under the terms of Option C for Solid Waste Disposal and for Processing Recyclable Materials.

13R Charter Amendment, Article II, Section 13, Vacancies in the Office of the Mayor and Council

Discussion and possible action to consider **RES. 2012-33** to change the Peoria City Charter pertaining to vacancies in the Office of the Mayor and Council and place the charter amendment on the August 28, 2012 Regular Election ballot.

14R Charter Amendment, Article II, Section 8, Vice-Mayor; Article II, Section 11, Induction of Mayor and Council Into Office

Discussion and possible action to consider **RES. 2012-34** to change the Peoria City Charter pertaining to Vice-Mayor and induction of Mayor and Council into office and place the charter amendment on the August 28, 2012 Regular Election ballot.

15R Charter Amendment, Article IV, Section 2, City Clerk

Discussion and possible action to consider **RES. 2012-35** to change the Peoria City Charter pertaining to City Clerk and to place the charter amendment on the August 28, 2012 Regular Election ballot.

16R Charter Amendment, Article II, Section 20, Interference in Administrative Service

Discussion and possible action to consider **RES. 2012-36** to change the Peoria City Charter pertaining to interference in administrative service and place the charter amendment on the August 28, 2012 Regular Election ballot.

17R Charter Amendment, Article VII, Section 12, Repealing or Suspending Ordinances

Discussion and possible action to consider **RES. 2012-37** to change the Peoria City Charter pertaining to repealing or suspending Ordinances and to place the charter amendment on the August 28, 2012 Regular Election ballot.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)
If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from the City Manager:

1. Council Calendar
2. Reports with Presentation
3. Informational (The following items are included for informational purposes only. There will be no separate discussion of these items unless a Councilmember so requests.)

    a. AMWUA One for Water Four-Miler Race and Family Fun Festival Water Conservation Event
    b. Lone Mountain Parkway Extension
    c. Bravo Peoria

Reports from City Council:
Reports from the Mayor:

ADJOURNMENT

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

Accommodations for Individuals with Disabilities. *Alternative format materials, sign language interpretation, assistive listening devices or interpretation in languages other than English are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Room 150, Peoria, Arizona 85345 (623)773-7340, TDD (623)773-7221, or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request.*

PUBLIC NOTICE:

In addition to the City Council members noted above, one or more members of the City of Peoria Boards and Commissions may be present to observe the City Council meeting as noticed on this agenda.

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
February 21, 2012

A **Special Meeting and Study Session** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 5:00 p.m.

Members Present: Mayor Bob Barrett; Vice Mayor Ron Aames; Councilmembers Cathy Carlat, Joan Evans, Carlo Leone, Dave Pearson and Tony Rivero.

Members Absent: None.

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Susan Thorpe, Deputy City Manager; Steve Kemp, City Attorney; Wanda Nelson, City Clerk; Andy Granger, Engineering Director; John Imig, Information Technology Director; Claudia Luján, Interim Human Resources Director; Roy Minter, Police Chief; Jeff Tyne, Interim Community Services Director; Corina Russo, Assistant to the City Manager; and Linda Blas, Deputy City Clerk.

Audience: Approximately two members of the public were present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT AGENDA

CONSENT AGENDA: All items listed with a "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Motion was made by Vice Mayor Aames, seconded by Councilmember Evans, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

1C Authorization to Hold an Executive Session

Pursuant to A.R.S. 38-431.03: Authorized the holding of an Executive Session for the purpose of consultation with the City's attorneys concerning the City's position in discussions with the Seattle Mariners and San Diego Padres regarding contract renewals for the use of the Peoria Sports Complex, pursuant to A.R.S. § 38-431.03(A)(4).

STUDY SESSION AGENDA

Subjects for Discussion Only:

1. Proposed Charter Amendments

Steve Kemp, City Attorney, presented two options for a proposed charter amendment pertaining to the succession of Vice Mayor to Mayor.

Discussion ensued on the proposed charter amendment if Council were to elect a new Mayor until a special election can be held, or if the Vice Mayor were to fill the remainder of the term until a Mayor was elected at the next City election to complete the remainder of the term.

Mr. Kemp presented two options for a proposed charter amendment regarding rotation of the position of Vice Mayor.

Discussion ensued regarding amending the charter to include the rotation of the Vice Mayor position.

Mr. Kemp summarized a proposed charter amendment pertaining to sales tax on wastewater services.

Discussion ensued pertaining to voter approval for sales tax on wastewater services.

It was the consensus of Council to have staff submit the following proposed charter amendments to the Council for action at a future meeting.

- Succession of Vice Mayor to Mayor – Council to appoint a Mayor until a special election can be held on the first available election date in order to fill the vacancy; and
- Rotation of Vice Mayor position based on alphabetical order of Council districts.

Mayor Barrett adjourned the meeting at 6:18 p.m.

The Study Session was reconvened at 7:22 p.m.

Mr. Kemp provided background on a proposed charter amendment pertaining to appointment of the City Clerk. At the request of Council, Mr. Kemp outlined the duties of the City Clerk.

Discussion ensued regarding the chief election officer for the City being appointed and evaluated by the City Council.

Mr. Kemp reviewed a proposed charter amendment to add a provision concerning interference in administrative service.

Discussion ensued pertaining to Council conversing with the City Manager on any matter relating to the appointment and removal of an employee.

Mr. Kemp presented a proposed charter amendment that would prevent Council from enacting an ordinance requiring a super majority vote to amend, repeal or suspend the provision of the ordinance.

At the request of Council, Mr. Kemp summarized examples of City Code provisions requiring a super majority vote.

It was the consensus of Council to have staff submit the following proposed charter amendments to the Council for action at a future meeting:

- City Clerk to be appointed and evaluated by City Council;
- Council to discuss with City Manager anything pertaining to appointment and removal of an employee; and
- Provision restricting the adoption of ordinances requiring a super majority to amend or repeal

The discussion on the following proposed charter amendments was carried over to a future meeting:

- Proposed Amendment on Policy Making by Charter Officers;
- Proposed Amendment on Term Limits for Council Members;
- Proposed Amendment on placing items on the Council Agenda;
- Proposed Amendment on Percent for the Arts;
- Proposed Amendment on Redistricting; and
- Proposed Amendment for Independent Redistricting Commission

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 8:08 p.m.

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the Special Meeting and Study Session of the City Council of Peoria, Arizona held on the 21st day of February, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 20th day of March, 2012.

(Seal)

_____

Wanda Nelson, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
February 21, 2012

A **Regular Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 7:00 p.m.

Following a moment of silent reflection, Boy Scout Troop #546 led the Pledge of Allegiance.

Members Present: Mayor Bob Barrett; Vice Mayor Ron Aames; Councilmembers Cathy Carlat, Joan Evans, Carlo Leone, Dave Pearson and Tony Rivero.

Members Absent: None

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Susan Thorpe, Deputy City Manager; Steve Kemp, City Attorney; Wanda Nelson, City Clerk; Andy Granger, Engineering Director; Stacy Irvine, Interim Fire Chief; Claudia Luján, Interim Human Resources Director; Brent Mattingly, Finance Director; Roy Minter, Police Chief; Jeff Tyne, Interim Community Services Director; and Linda Blas, Deputy City Clerk.

Audience: Approximately 35 members of the public were present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

PRESENTATION:

1. Oasis Elementary School - Junior Achievement BizTown

Fifth- and sixth-grade students from Oasis Elementary School reported on the lessons they learned regarding the free enterprise system through role playing as participants in Junior Achievement's BizTown.

CONSENT AGENDA: All items listed with a "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Mayor Barrett asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Carlat, seconded by Councilmember Leone, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

CONSENT – New Business:

1C Disposition of Absence

Excused the absence of Councilmember Cathy Carlat from the Special Meeting and Study Session held at 5:00 p.m. on February 7, 2012.

2C Minutes

Approved the minutes of:

January 17, 2012 Study Session
January 17, 2012 Regular Meeting

3C Contract Extension, Fixed-Term Construction Projects Coordinator Position

Approved the funding to extend a fixed-term contract for a full-time benefitted Construction Projects Coordinator through the end of Fiscal Year 2012.

4C Investment Report for the Quarter Ending December 31, 2011

Reviewed and accepted the Investment Report for the Quarter Ended December 31, 2011.

5C Deeds and Easements, Various Locations

RESOLUTION NO. 2012-17

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION FORMALLY ACCEPTING DEEDS AND EASEMENTS FOR PROPERTY RIGHTS CONVEYED TO THE CITY OF PEORIA.

Adopted **RES. 2012-17** accepting Deeds and Easements for various Real Property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office.

6C <u>Designate Roadways, Establish Rights-of-Way, Various Locations</u>

RESOLUTION NO. 2012-18

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF PUBLIC STREETS, TO BE OPENED AND MAINTAINED BY THE CITY.

Adopted **RES. 2012-18** designating various Real Properties to be used as City roadways and authorize the establishment of Public Rights-of-Way to be opened and maintained by the City as a Public Street.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

None.

Reports from the City Manager:

1. Council Calendar
2. Reports with Presentation
   a. New Library Manager "Mary Roberts"

Carl Swenson, City Manager, welcomed Mary Roberts, Library Manager, who will oversee the operation of the Peoria Library system for the Main Library at the City Hall campus and the Sunrise Mountain Library located in north Peoria.

Reports from City Council:

Councilmember Leone reported on the various City of Peoria events he attended. Councilmember Leone urged citizens to participate in a walking tour of Old Town Peoria's historic buildings being conducted by the Historical Society on March 3, 2012.

Councilmember Carlat recognized 8-year old P. J. Bartos for hosting his fourth annual lemonade stand to raise funds and awareness in the battle against childhood cancer.

Councilmember Rivero welcomed the recently opened Historic District Resale Mall to the downtown area. Councilmember Rivero encouraged citizens to attend the 17th Annual Black History Celebration and Festival on Saturday, February 25, 2012 at Osuna Park.

Councilmember Pearson recognized Tim Eiden, Fire and Life Safety Education Specialist, and his volunteers for replacing smoke detector batteries in the homes of

seniors residing in Ventana Lakes and Westbrook Village. Councilmember Pearson reminded citizens to attend the "P83" Party to be held on March 3, 2012 in the Arrowhead Entertainment area.

Councilmember Evans urged the public to stroll the decades walk at Centennial Plaza. Councilmember Evans invited Willow District residents to attend a community meeting on Saturday, February 25, 2012 at the Pinnacle Peak Public Safety Building on Lake Pleasant Parkway.

Vice Mayor Aames complimented the students from Oasis Elementary School on sharing their BizTown experience.

Reports from the Mayor:

Mayor Barrett thanked the students from Oasis Elementary School for their presentation. Mayor Barrett extended his appreciation to Boy Scout Troop #546 for their participation at the Council meeting.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 7:20 p.m.

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the Regular Meeting of the City Council of Peoria, Arizona held on the 21st day of February, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 20th day of March, 2012.

(Seal)

_____

Wanda Nelson, City Clerk

Agenda Item: 2C

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Date Prepared: February 28, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Wanda Nelson, CMC, City Clerk

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Boards and Commissions Reappointments

Purpose:

This is a request for City Council to appoint the following Board and Commission members as follows:

- William Bercu, as a regular member, to the Board of Adjustment,
- Cecil Daniels, as an alternate member, to the Board of Adjustment,
- Reed Webber, as a regular member, to the Citizens Commission on Salaries for Elected City Officials,
- Karen McDaniel, as a regular member, to the Library Board,
- Matthew Porter, as a regular member, to the Municipal Development Authority,
- Mary Truhler, as a regular member, to the Parks and Recreation Board,
- Edward Ryan, as a regular member, to the Public Safety Personnel Retirement System Fire Local Board,
- Edward Ryan, as a regular member, to the Public Safety Personnel Retirement System Police Local Board, and
- Dominique Peterson, as a regular member, to the Youth Advisory Board.

Background/Summary:

The terms for Brandon Squire (Board of Adjustment), and Joyce Mozzicato (Citizens Commission on Salaries for Elected City Officials) have expired. Shelby Duplessis (Board of Adjustment), Jim Torres (Municipal Development Authority), and Amy Upton (Parks and Recreation Board) no longer live in the City of Peoria. Carla Carlson (Library Board) , David Block (Public Safety Personnel Retirement System Local Boards Fire and Police), and Victoria Johnson (Youth Advisory Board) have resigned from their respective Boards and/or Commissions.

Previous Actions:

On February 14, 2012, the Council Subcommittee on Policy and Appointments met in the Ironwood Conference Room and discussed member appointments to the Board of Adjustment, Citizens Commission on Salaries for Elected City Officials, Library Board, Municipal Development Authority, Parks and Recreation Board, Public Safety Personnel Retirement System Local Boards (Fire and Police), and the Youth Advisory Board. The Subcommittee voted to recommend the appointment of new members as previously referenced in this Council Communication.

On February 15, 2012, a memorandum was submitted to Mayor and Council outlining the recommended appointments and asking for concerns to be submitted in writing to the Mayor. No comments were received.

Options:

A. Appointment of the recommended Board and Commission members.

B: Continue recruitment efforts to fill vacancies.

Staff's Recommendation:

This is a request for City Council to discuss and approve the recommendations from the Council Subcommittee on Boards and Commissions Appointments pertaining to the following appointments, and adopt the Resolutions as presented:

Adopt RES. 2012-20 appointing William Bercu, as a regular member, to the Board of Adjustment for a term to expire December 2015.

Adopt RES 2012-21 appointing Cecil Daniels, as an alternate member, to the Board of Adjustment for a term to expire December 2015.

Adopt RES. 2012-22 appointing Reed Webber, as a regular member, to the Citizens Commission on Salaries for Elected City Officials for a term to expire December 2015.

Adopt RES. 2012-23 appointing Karen McDaniel, as a regular member, to the Library Board for a partial term to expire June 2013.

Adopt RES. 2012-24 appointing Matthew Porter, as a regular member, to the Municipal Development Authority for a term to expire November 2014.

Adopt RES. 2012-25 appointing Mary Truhler, as a regular member, to the Parks and Recreation Board for a partial term to expire June 2012.

Adopt RES. 2012-26 reappointing Mary Truhler, as a regular member, to the Parks and Recreation Board for a term to expire June 2016.

Adopt RES. 2012-27 appointing Edward Ryan, as a regular member, to the Public Safety Personnel Retirement System – Fire for a partial term to expire June 2013.

Adopt RES. 2012-28 appointing Edward Ryan, as a regular member, to the Public Safety Personnel Retirement System – Police for a partial term to expire June 2013.

Adopt RES. 2012-29 appointing Dominique Peterson, as a regular member, to the Youth Advisory Board for a partial term to expire June 2012.

Adopt RES. 2012-30 reappointing Dominique Peterson, as a regular member, to the Youth Advisory Board for a term to expire June 2014.

Fiscal Analysis:

There is no fiscal impact regarding this item.

Narrative:

If appointed, the newly appointed Board and Commission members will be invited to the April 3, 2012 City Council meeting to accept a plaque and Certificate of Appointment.

Exhibit(s):

Exhibit 1: Resolution No. 2012-20
Exhibit 2: Resolution No. 2012-21
Exhibit 3: Resolution No. 2012-22
Exhibit 4: Resolution No. 2012-23
Exhibit 5: Resolution No. 2012-24
Exhibit 6: Resolution No. 2012-25
Exhibit 7: Resolution No. 2012-26
Exhibit 8: Resolution No. 2012-27
Exhibit 9: Resolution No. 2012-28
Exhibit 10: Resolution No. 2012-29
Exhibit 11: Resolution No. 2012-30

Contact Name and Number: Wanda Nelson, City Clerk, 623-773-7340

RESOLUTION 2012-20

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING WILLIAM BERCU TO THE BOARD OF ADJUSTMENT AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, the term of appointment for Brandon Squire on the Board of Adjustment expired December 2011 and there exists one vacancy; and

WHEREAS William Bercu desires to be a member and appointed to the Board of Adjustment; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of William Bercu, as a regular member, to the City of Peoria Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that William Bercu is appointed, as a regular member, to the City of Peoria Board of Adjustment.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

William Bercu December 2015

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-21

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING CECIL DANIELS TO THE BOARD OF ADJUSTMENT AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Shelby Duplessis is no longer eligible to serve on the Board of Adjustment and there exists one vacancy; and

WHEREAS Cecil Daniels desires to be a member and appointed to the Board of Adjustment; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Cecil Daniels, as an alternate member, to the City of Peoria Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Cecil Daniels is appointed, as an alternate member, to the City of Peoria Board of Adjustment.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Cecil Daniels December 2015

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-22

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING REED WEBBER TO THE CITIZENS COMMISSION ON SALARIES FOR ELECTED CITY OFFICIALS AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, the term of appointment for Joyce Mozzicato on the Citizens Commission on Salaries for Elected City Officials expired December 2011 and there exists one vacancy; and

WHEREAS Reed Webber desires to be a member and appointed to Citizens Commission on Salaries for Elected City Officials; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Reed Webber, as a regular member, to the City of Peoria Citizens Commission on Salaries for Elected City Officials.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Reed Webber is appointed, as a regular member, to the City of Peoria Citizens Commission on Salaries for Elected City Officials.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Reed Webber December 2015

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-23

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING KAREN MCDANIEL TO THE LIBRARY BOARD AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Carla Carlson on the Library Board resigned and there exists one vacancy; and

WHEREAS Karen McDaniel desires to be a member and appointed to the Library Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Karen McDaniel, as a regular member, to the City of Peoria Library Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Karen McDaniel is appointed, as a regular member, to the City of Peoria Library Board.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Karen McDaniel June 2013

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-24

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING MATTHEW PORTER TO THE MUNICIPAL DEVELOPMENT AUTHORITY AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Jim Torres is no longer eligible to serve on the Municipal Development Authority and there exists one vacancy; and

WHEREAS Matthew Porter desires to be a member and appointed to the Municipal Development Authority; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Matthew Porter, as a regular member, to the City of Peoria Municipal Development Authority.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Matthew Porter is appointed, as a regular member, to the City of Peoria Municipal Development Authority.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Matthew Porter November 2014

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-25

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING MARY TRUHLER TO THE PARKS AND RECREATION BOARD AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Patrick Sponsel is removed from the Parks and Recreation Board, and there exists one vacancy; and

WHEREAS Mary Truhler desires to be a member and appointed to the Parks and Recreation Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Mary Truhler, as a regular member, to the City of Peoria Parks and Recreation Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Mary Truhler is appointed, as a regular member, to the City of Peoria Parks and Recreation Board.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Mary Truhler June 2012

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-26

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, REAPPOINTING MARY TRUHLER TO THE PARKS AND RECREATION BOARD AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, the term of appointment for Mary Truhler on the Parks and Recreation Board expires June 2012, and there will exist one vacancy; and

WHEREAS Mary Truhler desires to be a member and reappointed to the Parks and Recreation Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said reappointment of Mary Truhler, as a regular member, to the City of Peoria Parks and Recreation Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Mary Truhler is reappointed, as a regular member, to the City of Peoria Parks and Recreation Board.

BE IT FURTHER RESOLVED that said reappointment shall expire as follows:

Mary Truhler June 2016

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-27

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING EDWARD RYAN TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM – FIRE AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, David Block resigned from the from the Public Safety Personnel Retirement System – Fire, and there exists one vacancy; and

WHEREAS Edward Ryan desires to be a member and appointed to the Public Safety Personnel Retirement System – Fire; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Edward Ryan, as a regular member, to the City of Peoria Public Safety Personnel Retirement System – Fire.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Edward Ryan is appointed, as a regular member, to the City of Peoria Public Safety Personnel Retirement System – Fire.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Edward Ryan June 2013

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-28

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING EDWARD RYAN TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM – POLICE AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, David Block resigned from the from the Public Safety Personnel Retirement System – Police, and there exists one vacancy; and

WHEREAS Edward Ryan desires to be a member and appointed to the Public Safety Personnel Retirement System – Police; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Edward Ryan, as a regular member, to the City of Peoria Public Safety Personnel Retirement System – Police.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Edward Ryan is appointed, as a regular member, to the City of Peoria Public Safety Personnel Retirement System – Police.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Edward Ryan June 2013

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-29

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING DOMINIQUE PETERSON TO THE YOUTH ADVISORY BOARD AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Victoria Johnson resigned from the from the Youth Advisory Board, and there exists one vacancy; and

WHEREAS Dominique Peterson desires to be a member and appointed to the Youth Advisory Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Dominique Peterson, as a regular member, to the City of Peoria Youth Advisory Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Dominique Peterson is appointed, as a regular member, to the City of Peoria Youth Advisory Board.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Dominique Peterson June 2012

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

RESOLUTION 2012-30

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, REAPPOINTING DOMINIQUE PETERSON TO THE YOUTH ADVISORY BOARD AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, the term of appointment for Dominique Peterson on the Youth Advisory Board expires June 2012, and there will exist one vacancy; and

WHEREAS Dominique Peterson desires to be a member and reappointed to the Youth Advisory Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said reappointment of Dominique Peterson, as a regular member, to the City of Peoria Youth Advisory Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Dominique Peterson is reappointed, as a regular member, to the City of Peoria Youth Advisory Board.

BE IT FURTHER RESOLVED that said reappointment shall expire as follows:

Dominique Peterson June 2012

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 20th day of March 2012.

CITY OF PEORIA, an Arizona municipal corporation

_____

Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

Approved as to Form:

_____
Stephen M. Kemp, City Attorney

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 3C

Date Prepared: February 14, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Andrew Granger, P. E., Engineering Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Intergovernmental Agreement, State of Arizona, New River Trail; Northern Avenue to Olive Avenue Trail and Underpass (Project No. CS00125)

Purpose:

This is a request for City Council to approve an Intergovernmental Agreement (IGA) between the State of Arizona and the City of Peoria for the design, construction, and maintenance obligations relating to a proposed multi-use trail path from Northern Avenue to Olive Avenue located along the west bank of the New River and an underpass at the Northern Avenue Bridge at New River.

Background/Summary:

In 1999, The City of Peoria received a Congestion Mitigation and Air Quality (CMAQ) grant to complete a Design Concept Report (DCR) for a multi-use trail between Northern Avenue and Grand Avenue (3.2 miles) along the west bank of the New River. In 2000, the City received Transportation Enhancement Funds (TEA) for construction of the trail project. During the time frame of 2000-2003 in the design phase, it was becoming apparent that escalating construction costs were causing the 3.2 mile of trail to become underfunded. The City decided to proceed with design of the trail, but construction would only include the multi-use trail from Olive Avenue to Grand Avenue.

In 2007, the City submitted an application to Maricopa Association of Governments (MAG) to obtain $700,000 of CMAQ funds for the purpose of completing the design and construction of the one-mile section of trail between Northern Avenue and Olive Avenue. In 2008, the trail from Olive Avenue to Grand Avenue was constructed. In 2009, with still no clear direction from MAG if the CMAQ funds had been awarded, the City attempted to take advantage of MAG annual close-out funds by applying for $500,000 of TEA funds. In 2010, the City received CMAQ and TEA funds to be applied towards the design and construction of the one-mile section of trail between Northern Avenue and Olive Avenue. However, the additional funding allowed the City to expand the scope of the project to include the design and construction of an underpass at the Northern Avenue Bridge, landscape improvements and a rest node. The Northern

Avenue underpass allows for a connection with the City of Glendale trail system extending south of Northern Avenue.

In anticipation of receiving federal funding, the City budgeted its share of matching funds for the project in the 10-year CIP. The City's matching funds (5.7%) include; $234,889 for construction funds and $25,112 for design and ADOT review fees.

The programmed improvements within the City of Peoria include the following:

- One-mile of multi-use trail from Northern Avenue to Olive Avenue;
- Two underpass ramps with a grade crossing in New River at the Northern Avenue Bridge;
- Landscape and rest nodes within the buffer area west of the multi-use trail.

As provided by ADOT, the project design documents will be complete by the spring of 2013, with construction scheduled to commence summer of 2013.

The purpose of this IGA is to define project limits, programmed improvements, and City and State obligations with respect to design, construction, and maintenance of the proposed improvements. A summary of each party's responsibilities is provided below.

City of Peoria

1. Be responsible for costs for any additional design changes requested by the City after the project has been awarded by ADOT;
2. Upon execution of this Agreement, and within thirty (30) days of receipt of an invoice from the State, remit to the State for the City's design match in the amount of $15,112 and $10,000 for ADOT review fees. Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs;
3. Remit to the State within thirty (30) days of receipt of an invoice from the State, for the City's estimated construction match in the amount of $234,889;
4. Be responsible for any costs exceeding the maximum Federal funds available for the Project or those costs deemed ineligible for Federal aid. Agree that the cost of the design activities covered by this Agreement is to be borne by FHWA and the City, each in the proportions prescribed and determined by FHWA;
5. Review design plans, project documents and review comments within 15 working days of receipt of documents;
6. Upon completion of the Project, agree to accept, maintain and assume full responsibility of said Project;
7. Enter into an agreement with Logan Simpson Design for the Environmental Clearance for the Project.

State

1. Prior to performing or authorizing any work, invoice the City for ADOT's review fee. Pay for all improvements included in the project documents.
2. Upon receipt of the design review fee and on behalf of the City, act as the City's designated agent.
3. On behalf of the City, use one of the State's On-Call Design Consultant Firms to prepare all pertaining documents for the Project; review and approve documents required by FHWA to qualify certain projects for and to receive Federal funds. Such documents may consist of, but are not specifically limited to, environmental documents; the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities and such other related tasks essential to the achievement of the objectives of this Agreement.
4. Send a review set of all design plans and project documents prepared by the design consultant to the City. Review design plans and project documents for said Project and provide comments to the City, Flood Control District of Maricopa County (FCDMC) and the design consultant as appropriate. Invoice City for additional design changes requested by the City after the project has been awarded.
5. Notify the City the Project has been completed and is considered acceptable, coordinating with the City and FCDMC as appropriate and to turn over full responsibility of the Project improvements to the City.

Previous Actions:

Previous Council actions taken with regards to improvements along New River Trail include:

- January 2011 - Award Contract for NRT Grand Avenue Underpass
- November 2010 – Award Contract for Bell Road to Union Hills Multi-Use Trail
- November 2010 - IGA Approval for Olive Avenue Underpass
- June 2010 - Award Contract for Peoria Avenue Underpass
- January 2009 - Award Job Order Contract for Deer Valley Road Underpass
- April 2007 – IGA Approval for Olive Ave – Grand Avenue Multi-Use Trail

Options:

A: Approve IGA with State of Arizona.

B: Deny approval of IGA, which will result in the cancellation of the multi-use trail and underpass project on New River between Northern Avenue and Olive Avenue.

Staff's Recommendation:

Staff recommends that Council approve the attached IGA with the State of Arizona.

Fiscal Analysis:

The fiscal impacts related to this IGA include both upfront capital expenditures and ongoing operating and maintenance costs.

The estimated upfront capital expenditures associated with this IGA are $260,001. This cost is attributed to the City's local match for design and construction as required by the Federal Highway Administration (FHWA) and as outlined in the background/summary section above. These amounts will be invoiced by ADOT in two installments and adequate funding is available in the current FY 2012 and the proposed FY 2013 Capital Improvement Programs.

The estimated additional operating and maintenance costs associated with these improvements are approximately $10,000 annually. This is attributable to Community Services to maintain trail paving, landscaping, striping, guard rail, and the rest nodes as part of this project.

Narrative:

Approval of this agreement will allow for the construction of these improvements to begin in the summer of 2013.

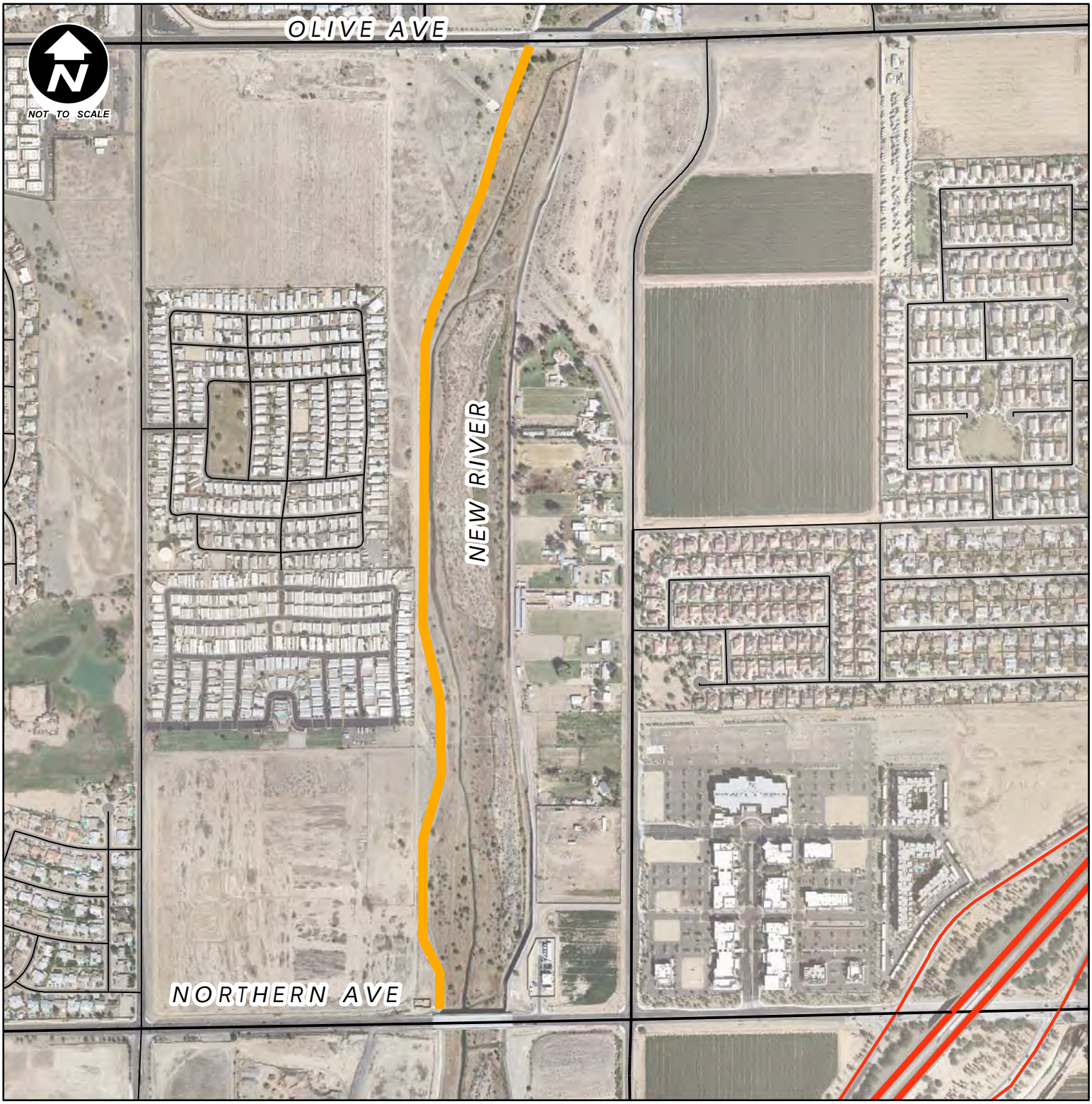
This IGA has been reviewed by Community Services, Public Works/Utility Division, and the City Attorney's office.

Exhibits:

Exhibit 1**:** Location Map
Exhibit 2: Vicinity Map
Exhibit 3: Intergovernmental Agreement

Contact Name and Number:

Ed Striffler, Design & Construction Manager, 623-773-7721



LEGEND

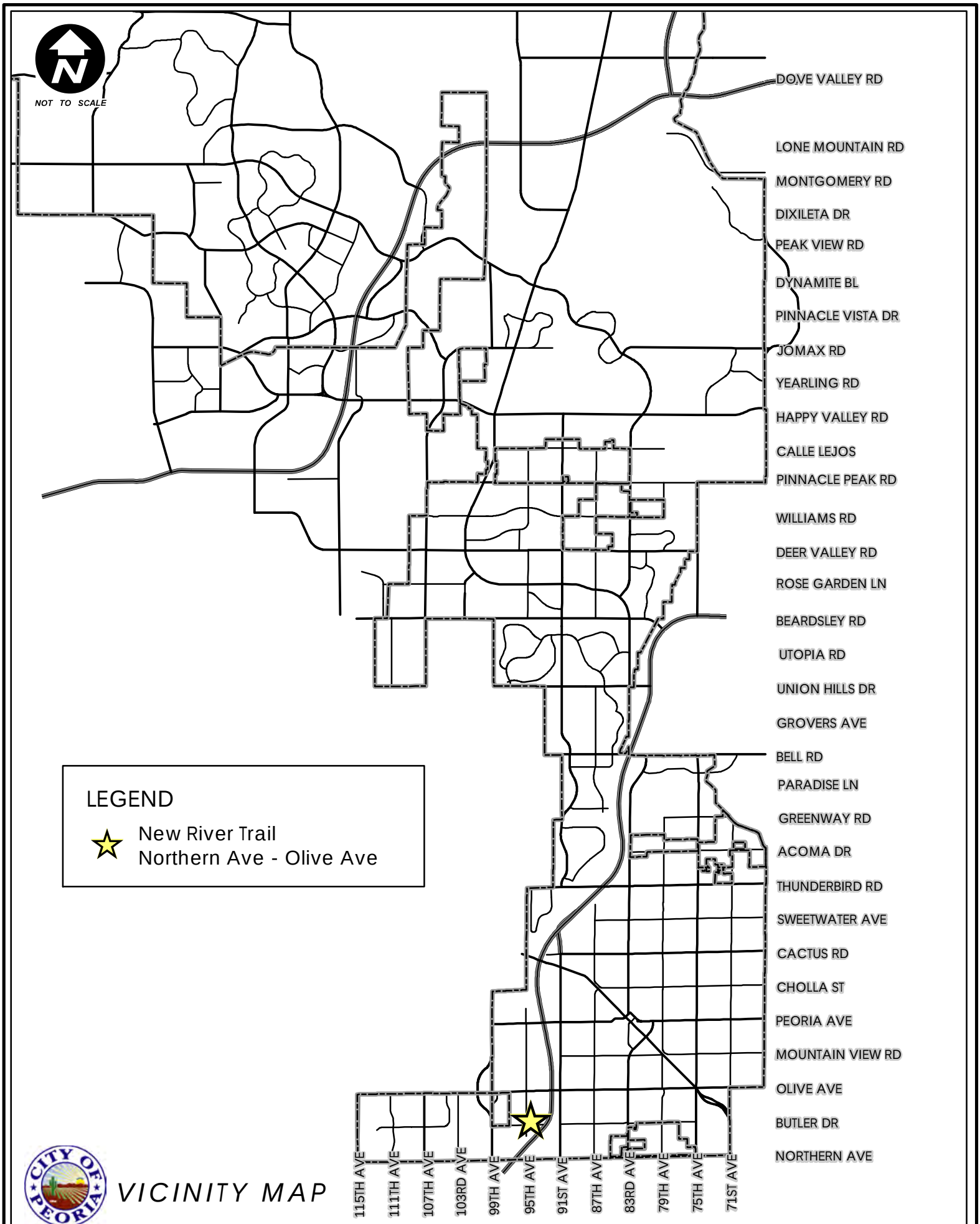
Trail

City of Peoria
New River Trail
Northern Ave to Olive Ave
Location Map

CITY OF PEORIA

GIS
Geographic Information Systems
CITY OF PEORIA
ARIZONA

NOTE:
This Map is based on imprecise source data, subject to change and FOR GENERAL REFERENCE ONLY.



VICINITY MAP

ADOT File No.: IGA/JPA 11-115-I
AG Contract No.: P001 2011 004200
Project: Multi use path
Section: Northern Ave to Olive Ave
Along the west bank of New River
Federal Project No.: CM-PEO-0(214)A
ADOT Project No.: SS 985 03D & 01C
CMAQ and TEA Funds

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PEORIA

THIS AGREEMENT is entered into this date _____ (effective date), pursuant to the Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PEORIA, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City collectively are referred to as "Parties".

I. RECITALS

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

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

3. The City has selected such project within the boundary of the City. The survey of the project has been completed and the plans, estimates and specifications will be prepared and as required, submitted to the State and Federal Highway Administration (FHWA) for its approval.

4. The City, in order to obtain TEA & CMAQ Federal funding, is willing to provide City funds to match Federal funds in the ratio required or as finally fixed and determined by the City and FHWA.

5. The City's project is to design and construct a Multi-use Trail path from Northern Avenue to Olive Avenue along the west bank of New River. The State will be the City's designated agent for obtaining Federal funds and administering the construction phase of the project, hereinafter referred to as the "Project". The City will enter into an agreement with one of the State's On-Call Design Consultant firms to prepare necessary documents and design plans and the State shall advertise, bid and award the Project.

6. The interest of the State in this project is the acquisition and distribution of federal funds for the use and benefit of the City and to authorize such federal funds for the project pursuant to Federal law and regulations.

7. The Federal funds will be used for the design and construction of the project, including the construction engineering and administration cost (CE).

The current Project costs are as follows:

ADOT Project No. SS 985 03D

TEA Funding @ 94.3%	$ 250,000.00
City Match @ 5.7%	$ 15,112.00
ADOT Review Fee	$ 10,000.00
Estimated Design Costs	$ 275,112.00

ADOT Project No. SS 985 01C

CMAQ & TEA Federal Funds	$ 950,000.00
City Match @5.7%	$ 234,889.00
***TOTAL Estimated Project Costs**	**$ 1,460,001.00**

*(Includes CE and project contingencies)

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

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

II. SCOPE OF WORK

1. The State will:

a. Prior to performing or authorizing any work, invoice the City for ADOT's review fee.

b. Upon receipt of the design review fee and on behalf of the City, act as the City's designated agent.

c. Upon execution of this Agreement, and prior to performing or authorizing any work, invoice the City for the City's estimated design match for the amount of $15,112.00 for the Project.

d. On behalf of the City, use one of the State's On-Call Design Consultant Firms to prepare all pertaining documents for the Project; review and approve documents required by FHWA to qualify certain projects for and to receive Federal funds. Such documents may consist of, but are not specifically limited to, environmental documents; the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities and such other related tasks essential to the achievement of the objectives of this Agreement.

e. Submit all documentation required to the FFHWA containing the above-mentioned Project with the recommendation that funding be approved for the Project. Request the maximum Federal funds be programmed for the design and construction of this Project. Should costs be deemed ineligible or exceed the maximum Federal funds available, it is understood and agreed that the City will be responsible for these costs.

f. Send a review set of all design plans and project documents prepared by the design consultant to the City. Review design plans and project documents for said Project and provide comments to the City, Flood Control District of Maricopa County (FCDMC) and the design consultant as appropriate.

g. Prior to performing or authorizing any construction-related work, invoice the City for the City's share of the construction costs, currently estimated at $ 234,889.00. The State will request the maximum programmed federal funds for the construction of this Project.

h. Upon approval by the FHWA, and receipt of the City's funds, proceed to advertise for, receive and open bids. The State will enter into a contract(s) with a firm(s) to whom the award is made for the construction of the Project; administer contracts(s) for the Project and make all payments to the contractor(s). Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

i. Notify the City the Project has been completed and is considered acceptable, coordinating with the City and FCDMC as appropriate and to turn over full responsibility of the Project improvements to the City.

j. Either invoice or reimburse the City for the difference between the Federal Aid and actual construction costs once the Project costs have been finalized. The State will prepare a final reconciliation upon completion of the Project.

k. Not be obligated to maintain said Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

2. The City will:

a. Upon execution of this Agreement, designate the State as authorized agent for the City.

b. Remit to the State within thirty (30) days of receipt of an invoice from the State, for the State's design review costs.

c. Upon execution of this Agreement, and within thirty (30) days of receipt of an invoice from the State, remit to the State for the City's design match in the amount of $15,112.00. Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs.

d. Be responsible for any costs exceeding the maximum Federal funds available for the Project or those costs deemed ineligible for federal aid. Agree that the cost of the design activities covered by this Agreement is to be borne by FHWA and the City, each in the proportions prescribed and determined by FHWA.

e. Pursuant to 23 USC 102(b), repay all Federal funds reimbursements for preliminary engineering costs on the Project if it does not advance to right of way acquisition or construction within ten (10) years after Federal funds were first made available.

f. Enter into an agreement for the use of the State's design consultant which states that the design consultant shall provide services as required and requested throughout the development of the project including the construction phase of the Project.

g. Review design plans and project documents and proved review comments, within 15 working days of receipt of documents, to the design consultant and the State as appropriate.

h. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction. Coordinate with the appropriate State's Right-of-Way personnel during any right-of-way process performed by the City, if applicable.

i. Not permit or allow any encroachments upon or private use of the right-of-way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

j. Hereby grant the State, its agents and/or contractors, without cost, the right to enter City Rights-of-Way, as required, to conduct any and all construction and preconstruction related activities, including without limitation, temporary construction easements or temporary Rights-of-Entry to accomplish among other things, soil and foundation investigations. And FCDMC permit required for geotechnical investigation.

k. Be responsible for any and all costs attributable to any engineering change orders requested by the City not covered by federal funds. The City will also be responsible for contractor claims for additional compensation caused by Project delays attributable to the City.

l. Upon completion of the Project, agree to accept, maintain and assume full responsibility of said Project in writing.

m. Enter into an agreement with Logan Simpson for the Environmental Clearance for the Project. This scope of work will not be part Premier Engineering's scope of services.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project, except any provisions for maintenance/electrical power and/or landscaping maintenance shall be perpetual by the City. Further, this Agreement may be cancelled at any time prior to advertisement of the project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project and the City will reimburse the State for any costs incurred by the State as a result of the termination.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid on behalf of the City and the fulfillment of any other responsibilities of the State as specifically set forth herein; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless, defend and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the City, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. This agreement shall remain in force and effect until completion of the work and related deposits and reimbursements.

4. The cost of design, construction and construction engineering work under this Agreement is to be covered by the federal funds set aside for this Project, up to the maximum available. The City acknowledges that the eventual actual costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by the federal government as eligible for federal funds. Therefore, the City agrees to furnish and provide the difference between actual costs and the federal funds received.

5. The cost of the project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA).

6. The City and the State warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

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

8. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

9. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes § 35-214 and § 35-215 shall apply to this Agreement.

10. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

11. Non-Availability of Funds: Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

12. If the federal funding related to this Project is terminated or reduced by the federal government, or if the federal government rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the State shall in no way be obligated for funding or liable for any past, current or future expenses under this Agreement.

13. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

14. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

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

Local Government Section
Project Manager, Robert Knighten
1615 W. Jackson Street MD 630E
Phoenix, Arizona 85007
(602) 712-7615

ADOT Financial Management Services
Attn: Project Accounting
206 17th Avenue, MD 204B
Phoenix, Arizona 85007
(602) 712-8471 Fax

Attn: Andy Granger, P.E.
City Engineer
City of Peoria
8401 W. Monroe Street
Peoria, Arizona 85345
Phone (623) 773-7260
Fax (623) 773-7211

For City Financial Matters:

Brent Mattingly, Finance Director
Phone: (623) 773-7134

15. Compliance requirements for Arizona Revised Statutes § 41-4401—immigration laws and E-Verify requirement:

a. The City warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Arizona Revised Statutes § 23-214(A).

b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Agreement, and the City may be subject to penalties up to and including termination of the Agreement.

c. The State retains the legal right to inspect the papers of any employee who works on the Project to ensure that the City or subcontractor is complying with the warranty under paragraph (a).

16. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

17. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

18. In accordance with Arizona Revised Statutes § 11-952(D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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

CITY OF PEORIA

By _____
BOB BARRET
Mayor for the City of Peoria

ATTEST:

By _____
WANDA NESSON
Clerk for City of Peoria

STATE OF ARIZONA
Department of Transportation

By _____
DALLAS HAMMITT, P.E.
Deputy State Engineer, Development

final February 1, 2012-ly

IGA/JPA 11-115-I

ATTORNEY APPROVAL FORM FOR THE CITY OF PEORIA

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

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

DATED this _____ day of _____, 2012.

_____
City Attorney

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 4C

Date Prepared: February 15, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Andrew Granger, P.E., Engineering Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Contract Amendment, Premier Engineering Corporation, New River Trail; Olive Avenue Underpass, Olive Avenue and New River. (Solicitation No. P04-0010, Project No. CS00142, LCON 01704F)

Purpose:

This is a request for City Council to 1) award Contract Amendment (CA) No. 7 to Premier Engineering Corporation (Premier) in the not to exceed amount of $10,075 for additional construction administration and survey services and 2) approve a budget transfer in the amount of $12,075 to fund the above contract amendment with Premier, miscellaneous connection charges and other direct city expenses.

Background/Summary:

The New River Trail Olive Avenue Underpass will improve the multi-use path crossing at Olive Avenue. Currently there is no crossing for the trail for the Northern Avenue to Olive Avenue segment. The underpass will provide safe segregation of pedestrians and bicyclists from arterial traffic.

Construction of the project began in November 2011, and is scheduled to be completed in spring 2012. Services being rendered by Premier during construction include construction administration, field observations, field survey of as-built conditions, and preparation of final as-built drawings for submission to the City and the Flood Control District of Maricopa County (FCDMC). Due to extensive coordination with the FCDMC and the Arizona Department of Transportation (ADOT) during construction, Premier's construction administration services contract is nearly depleted. In order to remain productive for the next few months of construction and to adequately address required efforts on as-built completion, it will be necessary to add the proposed amount of $10,075 to Premier's contract.

In order to provide lighting to the underpass, the City entered into an agreement with APS to extend the power supply and has encountered additional miscellaneous expenses. These additional costs exceed the original budgeted amount for the construction administration

services and post design services. The above budget transfer will provide adequate funding for these actions. Due to the competitive construction market reductions, the construction costs resulted in the total project cost remaining under the programmed budget.

Previous Actions:

Previous Council actions taken with regards to the NRT Olive Avenue Underpass include:

Base Agreement	
(Design Concept Reports – Peoria Avenue & Olive Avenue Underpasses)	$ 99,997
Contract Amendment No. 1	
(Peoria Avenue & Olive Avenue Underpass Surveys)	$ 4,862
Contract Amendment No. 2	
(Final Design – Peoria Avenue & Olive Avenue Underpasses)	$124,998
Contract Amendment No. 3	
(Additional Services – MCFCD Requested Changes)	$ 17,677
Contract Amendment No. 4	
(Administrative - Reallocation of Fee within Agreement)	$ 0
Contract Amendment No. 5	
(Peoria Avenue Underpass – Construction Administration)	$ 15,086
Contract Amendment No. 6	
(Olive Avenue Underpass – Construction Administration)	$ 19,705
Contract Amendment No. 7	
(Olive Avenue Underpass – Additional CA Services)	$ 10,075
Revised Contract Total	**$292,400**

Options:

A: Approve CA #7 for additional post design services for Premier Engineering and the budget transfer.

B: Deny approval of CA #7 and budget transfer, which will result in the City being in breach of the Sections II.2.e and II.2.F of the Intergovernmental Agreement between the State and the City dated December 21, 2010. These sections state that the City will enter into an agreement with the design consultant to provide services that are required and requested during the construction phase of the project and provide a set of as-built plans upon completion of the construction phase of the project.

Staff's Recommendation:

Staff recommends that Council approve Contract Amendment No. 7 with Premier Engineering in the amount of $10,075.

Staff also recommends that Council approve a budget transfer in the amount of $12,075 from the 2010 GO Bonds Fund Contingency Account 4240-4240-570000 to the 2010 GO Bonds Fund Park Improvements Account 4240-4240-CIPRT-543005-CS00142.

Fiscal Analysis:

Funding for this contract amendment and the related city paid project expenses will be available upon approval of the aforementioned budget transfer.

Narrative:

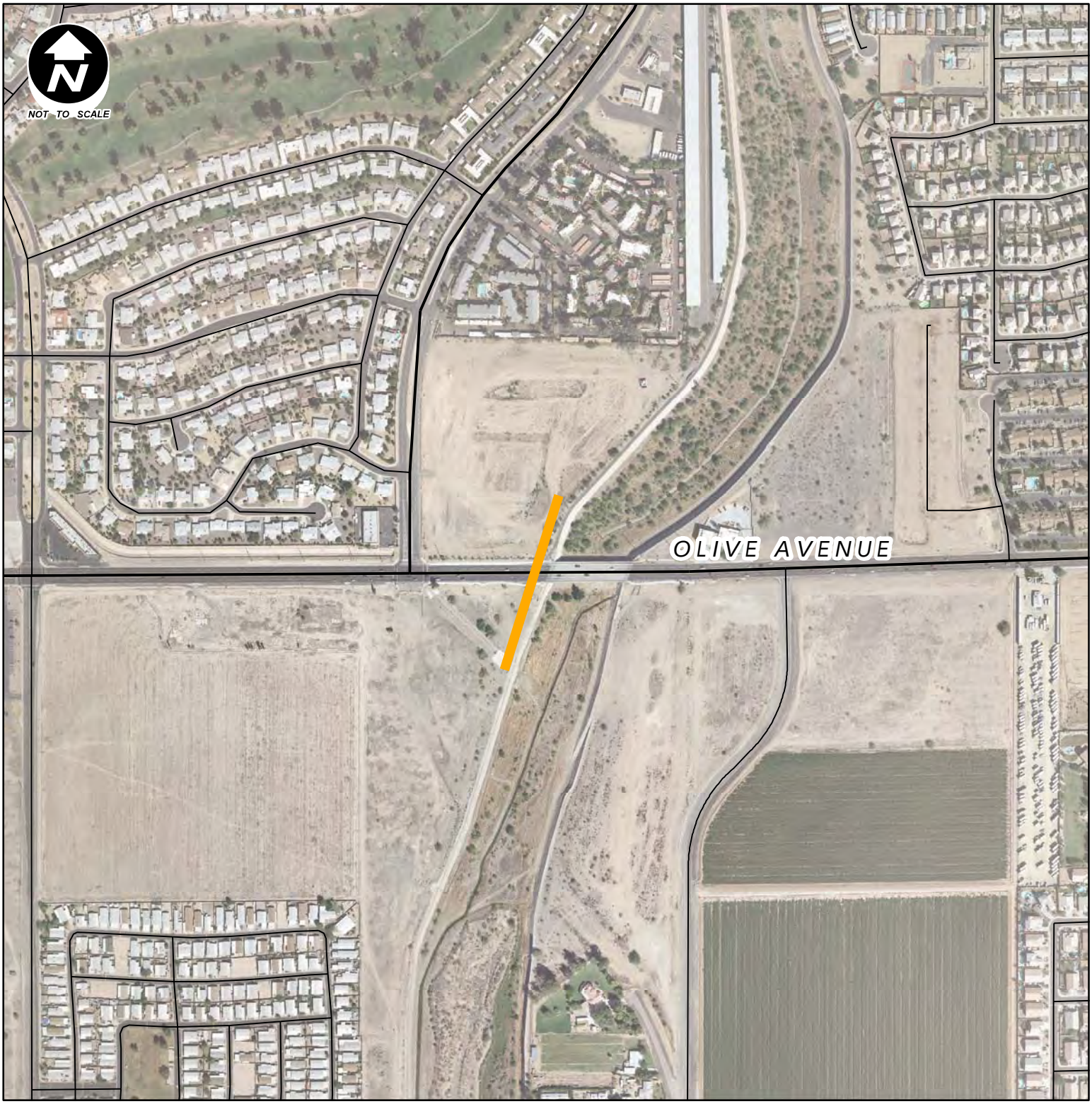
Approval of CA #7 will allow for Premier Engineering to continue working under a post design services contract for the project and ensure as-built preparation is not compromised.

CA #7 has been reviewed by the City's Engineering Department.

Exhibits:

Exhibit 1**:** Location Map
Exhibit 2: Vicinity Map
Exhibit 3: Premier Engineering Fee Proposal

Contact Name and Number: Ed Striffler, 623-773-7721



LEGEND

Trail

City of Peoria

New River Trail

Olive Ave Underpass

Location Map

CITY OF PEORIA

GIS

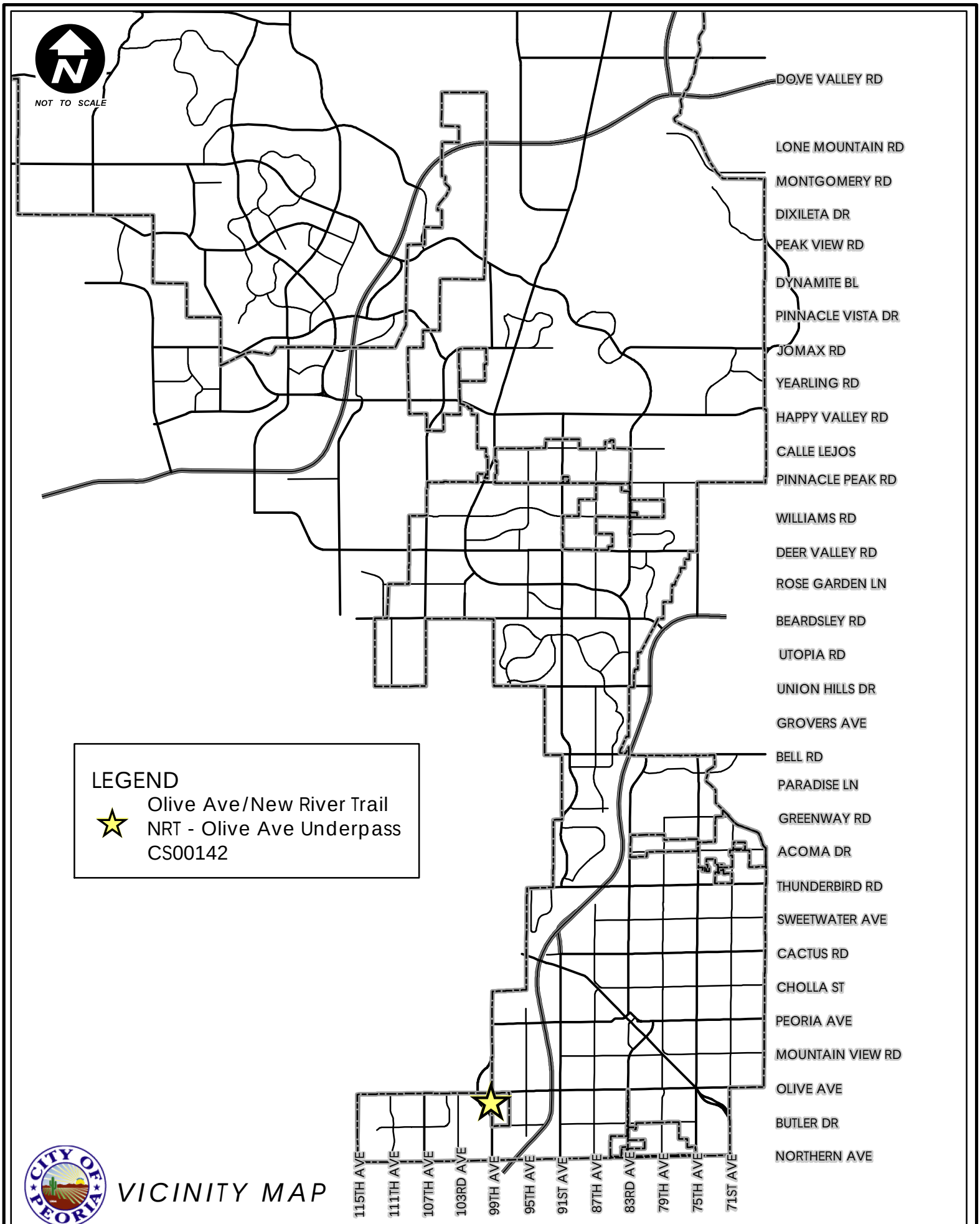
Geographic Information Systems

CITY OF PEORIA

ARIZONA

NOTE:

This Map is based on imprecise source data, subject to change and FOR GENERAL REFERENCE ONLY.



VICINITY MAP

Exhibit 3

PREMIER
ENGINEERING CORPORATION

February 15, 2012

City of Peoria
Engineering Department
9875 N. 85th Avenue
Peoria, AZ 85345

Attn: Mr. Karl Zook, P.E.

Re: Olive Avenue Underpasses at New River
Change Order No.7 – Post Design Services
Premier Proposal No. 2012-012-05

Dear Karl:

As requested, enclosed please find our scope and fee proposal for Change Order No. 7 to complete the post-design services for the Olive Avenue Underpass at New River project.

The Scope of Services for this change order is a continuation of the Scope of Services outlined in Contract Amendment No. 6 previously submitted and approved by the City for post design services for this project. The estimated fees for Contract Amendment No. 6 have been depleted and therefore additional fees are required to complete the remaining tasks.

Our proposed cost-plus, not-to-exceed fee for the attached remaining scope of services is **$10,075** (Ten Thousand, Seventy-five Dollars Only).

If you have any questions or require any clarification, please contact Sam Malekooti or me at 480-829-6000.

Sincerely,

Premier Engineering Corporation

[redacted]

Kimberly J. Boyd, P.E.
Project Manager

Encl: Scope and Fee Proposal

Olive Avenue Underpasses at New River

Change Order No. 7– Post Design Scope of Services (Continuation)

February 15, 2012

Project Purpose and Objectives: Premier will provide the limited Post Design Services as described below to assist the City and ADOT for the remainder of the construction phase for the Olive Avenue River Path Underpass at New River project. Partial Post Design Services have been provided as part of Contract Amendment No. 6.

Description of Services: Based on our understanding, the following tasks define Premier's detailed services.

******

Civil/Structural Engineering Tasks

Project Administration: Premier shall coordinate and assist the City and ADOT as required to administer the post design services described below.

Submittal Review: Premier will review and approve shop drawings, sample products, and material certifications submitted by the Contractor.

Request for Information (RFI) Review/Response: Premier will review and reply to RFIs as requested by the City/ADOT to address interpretations, corrections or unforeseen issues related to the construction documents.

Field Engineering: Premier will provide field engineering services as needed to address the design intent and/or unforeseen field conditions. Two (2) site visits have been budgeted for this task.

******

Survey Tasks

As-Built Preparation: Premier shall provide data entry and calculations and prepare the final As-Built drawings in accordance with City of Peoria requirements.

Field Work: Premier shall take field measurements as needed to prepare the final as-built drawings.

******

Exclusions: The following services are excluded from the scope unless and until negotiated at a later date.

- Attend regularly scheduled construction progress meetings
- Construction Staking
- Inspection Services
- Materials Testing
- Review Payment Requests
- Review/Approve Change Order Requests
- Engineering Design Services (except as needed for RFI responses)
- Any task not specifically described in this Scope of Work

Premier Engineering Corporation
Derivation of Cost Proposal
Olive Avenue Underpass at New River

Estimated Direct Labor

Classification	Hours	Average Hourly Rate	Cost	Totals
Project Manager	16	$43.07	$689.12	
Senior Engineer	16	$42.94	$687.04	
Sr. CADD Designer	20	$26.59	$531.80	
Survey Project Manager	12	$40.00	$480.00	
Two-Person Survey Crew	30	$36.29	$1,088.70	
Total Estimated Direct Labor	**94**			**$3,477.00**
Negotiated Overhead (163.43%)				**$5,682.00**
Total Direct Labor and Overhead				**$9,159.00**
Total Estimated Direct Expenses				**$0.00**
Total Estimated Subconsultant Services				**$0.00**
Subtotal Cost to Consultant				**$9,159.00**
Fixed Fee (10%)				**$916.00**
		Total Estimated Cost		**$10,075.00**

[redacted]
Signature

2/15/12
Date

Premier Engineering Corporation

Olive Avenue Underpass at New River

ITEM/TASK	Project Manager	Senior Engineer	Sr. CADD Designer	TOTAL
Billing Group 01: Post Design Services - Land Development				
Post Design Services	16		6	22
Total Billing Group 01: Post Design Services - Land Development	**16**		**6**	**22**
Fee Total Billing Group 01:	**$689.12**		**$159.54**	**$848.66**

ITEM/TASK	Project Manager	Senior Engineer	Sr. CADD Designer	TOTAL
Billing Group 02: Post Design Services - Structures				
Review Shop Drawings		12		12
RFI, Submittals, Shop Drawings		2	6	8
Field Engineering		2		2
Total Billing Group 02: Post Design Services - Structures		**16**	**6**	**22**
Fee Total Billing Group 02:		**$687.04**	**$159.54**	**$846.58**

ITEM/TASK	Survey Project Manager	Two-Person Survey Crew	Sr. CADD Designer	TOTAL
Billing Group 03: Post Design Services - Survey				
As-Built Preparation	12		8	20
Field Work		30		30
Total Billing Group 03: Post Design Services - Survey	**12**	**30**	**8**	**50**
TOTALS HOURS	**12**	**30**	**8**	**50**

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 5C

Date Prepared: February 22, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Wanda Nelson, City Clerk

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Citizens Commission on Salaries for Elected City Officials Report and Recommendation

---

Purpose:

This is a request for City Council to accept or reject the recommendation made by the Citizens Commission on Salaries for Elected City Officials to increase the Mayor and Council salaries by five percent (5%).

Background/Summary:

The Citizens Commission on Salaries for Elected City Officials ("Commission") was established by a City Charter change approved by the voters at the Primary Election held in March 1997. The Commission's responsibilities are to meet, review data, and then make recommendations to the City Council of any possible changes to the voter-approved salary for the Mayor and City Council. The Commission is required to make their recommendations every two years. The City Council, by City Charter, must either accept or reject the Commission's recommendations.

The Commission may make recommendations to City Council as follows:

1. To recommend a 5.1 percent or less increase or decrease to existing salaries for Mayor and Council, which City Council may accept or reject by majority vote.

2. To recommend exceeding a 5.1 percent increase or decrease to existing salaries for Mayor and Council, which, if accepted by City Council, would require a resolution to be prepared to refer the matter to the voters.

Previous Actions:

On February 15, 2012, the Commission met to review and discuss possible adjustments to Mayor and Council salaries. The Commission made a recommendation to increase Mayor and Council salaries by five percent (5%).

Options:

A: Accept the Commission's recommendation to increase Mayor and Council salaries by five percent (5%).

B: Reject the Commission's recommendation to increase Mayor and Council salaries by five percent (5%). If rejected by City Council, the Commission's recommendation process does not occur again for two years.

Staff's Recommendation:

The Commission has recommended to increase Mayor and Council salaries by five percent (5%).

Fiscal Analysis:

Accepting the recommendation of the Citizens Commission on Salaries for Elected City Officials would increase the FY13 and FY14 Mayor and Council *Personal Services* budget.

Annual Salaries	Current	5% Increase
Mayor	$30,277.80	$31,791.69
Council	$20,185.20	$21,194.46

Narrative:

If the recommendation of the Citizens Commission on Salaries for Elected City Officials is accepted, salary increases for Mayor and City Council would be effective for calendar years 2013 and 2014.

Exhibit(s):

Exhibit 1: Citizens Commission on Salaries for Elected City Officials Report and Recommendation

Contact Name and Number: Wanda Nelson, City Clerk, 623-773-7342

REPORT AND RECOMMENDATIONS
TO THE MAYOR AND CITY COUNCIL
CITY OF PEORIA, AZ

Submitted by
CITIZENS COMMISSION ON SALARIES
FOR ELECTED CITY OFFICIALS

February 15, 2012

SUMMARY OF COMMISSION DISCUSSION AND REPORT:

The Citizens Commission on Salaries for Elected City Officials met on February 15, 2012. The Commission reviewed documents prepared by City Staff including Salary Survey Benchmark Comparisons for Valley cities and towns, employee pay increases/decreases, and the 2010 Commission Report and Recommendations. The Peoria City Charter prescribes that salary recommendations be presented to the City Council every two years.

The Citizens Commission on Salaries for Elected City Officials, therefore, as required by the Charter of the City of Peoria, Arizona, hereby submits this Report and Recommendation for the salaries for Mayor and City Council of the City of Peoria, Arizona to the Office of the City Clerk.

The Citizens Commission on Salaries for Elected City Officials further requests that the City Clerk herewith comply with the requirements of said Charter, and submit the Report and Recommendations to the City Council for discussion and possible action.

RECOMMENDATION:

The Citizens Commission on Salaries for Elected City Officials reports to the City Council a recommendation of five percent (5%) increase for Mayor and Council for 2013 through 2014.

RECEIVED
CITY CLERK'S OFFICE
2012 FEB 27 PM 3: 26

BACKGROUND:

In 1997, the Electors of the City of Peoria approved an amendment to the Charter of the City of Peoria that mandated the establishment of a five-member Citizens Commission on Salaries for Elected City Officials.

The current commission members are:

Phil Hanson, Chairman
David Eberhart, Mark Hughes, Joyce Mozzicato, and Craig Wismer

BACKGROUND: (continued)

By Charter, the Commission is required to provide recommendations to the City Council every two years for any possible changes to the salary of the Mayor and City Council. The City Clerk is required to place the Commission's recommendations on a City Council agenda, and the City Council is required by the Charter to either accept or reject the Commission's recommendations.

The Charter sets forth very specific requirements that the Commission must follow regarding their responsibilities and recommendations. One of the requirements is that the Commission's recommendations for any salary adjustment must be filed with the City Clerk a minimum of 150 days prior to the Primary Election.

The Commission on Salaries for Elected City Officials makes recommendations in regards to salaries for the Mayor and City Council:

1. To increase or decrease the existing salary of the Mayor and City Council by an amount less than 5.1 percent.

   * The Council, by majority vote, may accept or reject the Commission's recommendations of an amount less than 5.1 percent without having the salary adjustment recommendation placed on the City's August 28, 2018 Primary Election Ballot.

2. To increase or decrease the existing salary for the Mayor and City Council by an amount of 5.1 percent or greater.

   * The Council, by majority vote, may accept or reject the Commission's recommendation to exceed 5.1 percent by the approval or denial and by resolution directing that the City Clerk place the issue on the August 28, 2012 Primary Election Ballot.

If the City Council, by majority vote, rejects the recommendations of the Commissions, the salary of the Mayor and Council remains the same, and the Commission's recommendation process does not occur again for two years.

Respectfully submitted this 13 rd day February, 2012.

Phil Hanson, Chairman
Citizens Commission on Salaries for Elected City Officials

Attachments: 2012 Elected Officials Salary Survey Benchmark Comparisons
Employee Pay Increases/Decreases Handout

Elected Officials
Salary Survey
Benchmark Comparisons
January 2012

City	Population	Mayor Actual	Vice Mayor Actual	Council Actual
City of Avondale	81,000	$16,183	$12,128	$8,091
City of Chandler	238,451	$36,810	$20,450	$20,450
City of Glendale	226,721	$48,000	$34,000	$34,000
Town of Gilbert	218,397	$37,822	$21,012	$21,012
City of Goodyear	65,275	$23,000	$12,500	$9,200
City of Mesa	434,627	$38,002	$19,032	$19,032
City of Phoenix	1,567,453	$88,000	$61,600	$61,600
City of Scottsdale	217,835	$36,000	$18,000	$18,000
City of Surprise	117,000	$34,030	$20,242	$20,242
City of Tempe	161,719	$55,496	$27,747	$27,747
City of Peoria	**158,000**	**$30,278**	**$20,185**	**$20,185**
	Average	$41,334	$24,671	$23,937
	City of Peoria	$30,278	$20,185	$20,185
	Average Difference	($11,056)	($4,486)	($3,752)
	Average % Diff +/or-	-26.7%	-18.2%	-15.7%

Employee Pay Increases/Decreases
Fiscal Year 2012
July 2011 – June 2012

1. **Any pay increases/decreases to employees' salaries during the past year (FY 11/12):**
   - No merit increases.
   - No COLA increases.
   - No market adjustments.
   - Lump Sum Payments negotiated for represented groups. See below for details.

GROUP	Amount	Requirements
AFSCME	Eligible for $850 for topped out employees only	Requires Satisfactory Performance
COPPS	Eligible for $850 for all employees	Requires Satisfactory Performance
PFFA	Eligible for $850 for all employees	Must be an employee as of July 1, 2011
PPOA	Eligible for $860.98 for all employees not topped out	Requires Satisfactory Performance
Non Represented (including Management)	Did not receive a lump sum payment.	N/A

2. **Any increases/decreases to employees' take-home pay as a result of changes in benefits:**
   a. **Health Insurance Increase resulting in decrease of employees' take-home pay.**
      - 5.9% Medical Insurance
   b. **Retirement/Pension Contribution Rate Increases resulting in decrease of employees' take-home pay.**
      - ASRS: 1.54%
      - PSPRS (Police): 1.00%
      - PSPRS (Fire): 1.00%
      - PSPRS (Elected Officials): 3%
   c. **Allowances/Stipends Discontinuance and Decreases resulting in decrease of applicable employees' take-home pay.**
      - $350 monthly Vehicle Allowance was discontinued for DCM's and Directors, effective June 25, 2011. This is an annual reduction of $4,200.00 per employee.
      - Cell phone stipends for applicable managers and below were reduced, effective September 17, 2011. See below for details.

Cell Phone Stipends Monthly for Managers and Below		
FY 11	**FY 12**	**Annual Reduction Amount per Applicable Employee**
$100	$78	$264
$40	$38	$24

3. **Other general impacts to employees' salaries:**

GROUP	Fiscal Year 2010 July 1, 2009 – June 30, 2010	Fiscal Year 2011 July 1, 2010 – June 30, 2011	Fiscal Year 2012 July 1, 2011 – June 30, 2012
AFSCME	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases
COPPS	Were non represented during this FY	Were non represented during this FY	Suspension of step/merit, COLA and market increases
PFFA	5% step/merit funded through reduction to uniform allowance, reduction in vacation leave and elimination of $35 per pay period deferred compensation city contribution	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases
PPOA	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases
Non Represented (including Management)	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases	Suspension of step/merit, COLA and market increases

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 6C

Date Prepared: March 05, 2012 **Council Meeting Date:** March 20, 2012

TO: Carl Swenson, City Manager

FROM: William Mattingly, Public Works – Utilities Director

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Budget Adjustment for Increased Fuel Costs in Fleet Services

---

Purpose:

Discussion and possible action to approve a budget adjustment for increased fuel costs in the Fleet Services Division of the Public Works-Utilities Department. A budget adjustment is requested in the amount of $295,000 from the General Fund Non-Departmental contingency account (1000-0300-570000) to the Fleet Services Division Unleaded and Diesel accounts (3000-3420-531001, 531002). The budget adjustment is requested to purchase the required unleaded and diesel fuel to meet the projected demands of the City.

Background/Summary:

The Fleet Services Division purchases Unleaded fuel and Bio-diesel fuel at wholesale prices and dispenses fuel for the City vehicles and equipment at the Municipal Operations Center fuel island. Fleet Staff monitors fuel costs on a continuous basis. Fleet wholesale motor fuel prices continue to remain high. The Public Works-Utilities Department, in cooperation with the Office of Management and Budget, determined to defer a budget adjustment until later in the fiscal year in order to develop a more accurate year-end projection and avoid multiple adjustments. Diesel fuel increased from an average price of $2.98 per gallon in Fiscal Year 2011 to an average of $3.46 per gallon for the first seven months of Fiscal Year 2012. Unleaded fuel went from an average price of $2.71 per gallon to an average of $3.26 per gallon for the same time period. The U.S. Energy Information Administration (EIA) projects an average price of $3.50 per gallon for Diesel and an average price of $3.15 per gallon for Unleaded for calendar year 2012.

Fuel prices spiked in the first quarter of calendar year 2011. These prices moderated in the second quarter of 2011 and the Fleet Services Division was able to mitigate the cost increases in the FY 2011 without a budget adjustment. The FY 2012 Fleet budget for fuel is equal to the FY 2011 budget. The FY 2012 Fleet budget is $921,600 for Diesel and $794,000 for Unleaded (including E-85) for a total of $1,715,600. Based on current projections, the year end costs for both Diesel and Unleaded will be $2,010,600 (17% over budget). These costs can not be absorbed within the overall Fleet Services budget.

Staff prepared the following estimates for the remainder of FY 2012.

Unleaded Fuel:
Total Projected Cost for Unleaded for the year: $844,000
Current Budgeted amount: $794,000
Proposed Budget increase: $ 50,000

Bio Diesel Fuel:
Total Projected Cost for Diesel for the year: $ 1,166,600
Current Budgeted amount: $921,600
Proposed Budget increase: $245,000

Previous Actions:
No previous actions have transpired regarding this request.

Options:

A. The Council could act to approve the budget adjustment for fuel allocations.
B: The Council could decline to approve the proposed budget adjustment at this time. This would have a direct impact on City Fleet customers.

Staff's Recommendation:

Staff recommends the approval of a budget adjustment of $295,000 from the General Fund Non-Departmental contingency account (1000-0300-570000) to the Fleet Services Division Unleaded and Diesel accounts (3000-3420-531001, 531002).

Fiscal Analysis:

The action requires a budget adjustment in the amount of $295,000 from the General Fund Non-Departmental contingency account (1000-0300-570000) going to the following Fleet Services accounts:

Unleaded fuel (3000-3420-531001) $ 50,000
Diesel fuel (3000-3420-531002) $245,000

Narrative:

With approval of this request, the Fleet Division will continue to work to ensure that fuel is purchased at favorable pricing and in time to meet city requirements.

Contact Name and Number: Herman Koebergen, Public Works Fleet Manager, 623-773-7460

CITY OF PEORIA, ARIZONA
CITY COUNCIL COMMUNICATIONS

Agenda Item: 7C

Date Prepared: March 13, 2012 **Council Meeting Date: March 20, 2012**

TO: Mayor and City Council

FROM: Claudia Lujan, Interim Human Resources Director

THROUGH: Susan Thorpe, Deputy City Manager

SUBJECT: Authorization to transfer cash reserves and budget appropriation to the Self-Insurance Workers' Compensation Fund

---

PURPOSE:

This is a request for the City Council to approve the transfer of cash from the Insurance Reserve Fund to the Self-Insurance Workers' Comp Fund and the transfer of budget appropriation from the Insurance Reserve Fund to the Self-Insurance Workers' Comp Fund. This requested action will bring the trust into compliance with the Industrial Commission of Arizona's "Exemption from Requirement to Post Security" policy.

BACKGROUND/SUMMARY:

The Industrial Commission of the State of Arizona (ICA) requires that Employee Benefits Trusts be sufficiently funded to meet actuarial liabilities for workers' compensation claims and associated administrative charges. According to the ICA, this can be accomplished in one of two ways. 1) Providing funding to the risk management fund each year to cover actuarial liabilities; or 2) Posting a security deposit in accordance with A.A.C. § R20-5-1114 (A) (1).

The City's current practice of assigning funding in the Insurance Reserve Fund for contingencies is not acceptable to the ICA. To rectify the situation, on March 13, 2012, the Employee Benefits Trust Board took action directing staff to bring the Trust into compliance by appropriately funding the Self-Insurance Workers' Comp Fund.

PREVIOUS ACTIONS:

On March 13, 2012, the Employee Benefits Trust Board voted to recommend that City Council approve the transfer of $1,050,000 cash from the Insurance Reserve Fund to the Self-Insurance Workers' Comp Fund and the transfer of $565,306 of budget appropriation from the Insurance Reserve Fund to the Self-Insurance Workers' Comp Fund in order to comply with the ICA's policies.

OPTIONS:

A. Transfer the necessary cash and appropriation to bring trust into compliance at the direction of the ICA.
B. Post a security bond.

STAFF RECOMMENDATION:

Council approve a transfer of cash reserves in the amount of $1,050,000 cash from the Insurance Reserve Fund (3200) to the Workers Compensation Self-Insurance Fund (3210). In addition, Council approve a budget appropriation transfer in the amount of $565,306 from Insurance Reserve Fund (3200-3610-570000) to the Workers Compensation Self-Insurance Fund (3210-3620-523018).

FISCAL ANALYSIS:

A cash transfer of $1,050,000 from the Insurance Reserve Fund to the Workers' Compensation Self-Insurance fund and an appropriation transfer for $565,306 from the Insurance Reserve Fund to the Workers' Compensation Self-Insurance Fund will bring the Workers' Compensation Self-Insurance Fund into compliance with the ICA's "Exemption from Requirement to Post Security" guidelines.

NARRATIVE:

Upon approval of the transfer of cash reserves and budget appropriation, staff is directed to notify the Industrial Commission of Arizona that the actuarial liabilities for workers' compensation claims have been fully funded.

EXHIBITS:

Minutes from March 13, 2012 Employee Benefits Trust Board Meeting

Contact Name and Number:
Bobbie Kimelton, Human Resources Manager
623-773-7624

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 8C

Date Prepared: February 28, 2012 **Council Meeting Date:** March 20, 2012

TO: Carl Swenson, City Manager

FROM: Andrew Granger, P. E., Engineering Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Salt River Project Power Distribution Easement, 83rd and Olive Avenues

---

Purpose:

This is a request for City Council to authorize the execution of an Overhead and Underground Power Distribution Easement to Salt River Project (SRP) for the relocation and maintenance of an overhead utility line associated with the construction of roadway improvements at 83rd and Olive Avenues.

Background/Summary:

The City's design consultant has analyzed the existing electric utility line locations and determined that it will be necessary to relocate portions of the existing SRP lines to accommodate our project.

Previous Actions:

SRP has agreed to relocate the portions of their utility lines that are in conflict with our new roadway improvements and have requested that the City grant them an easement for the portion that will be relocated.

Options:

A: City Council authorizes the execution and recordation of the Easement.

B: City Council chooses not to authorize the easement resulting in SRP being unable to relocate the overhead lines.

Staff's Recommendation:

Staff recommends the adoption of a Resolution authorizing the City Manager to execute the SRP easement.

Fiscal Analysis:

There is no fiscal impact to the City associated with granting this easement.

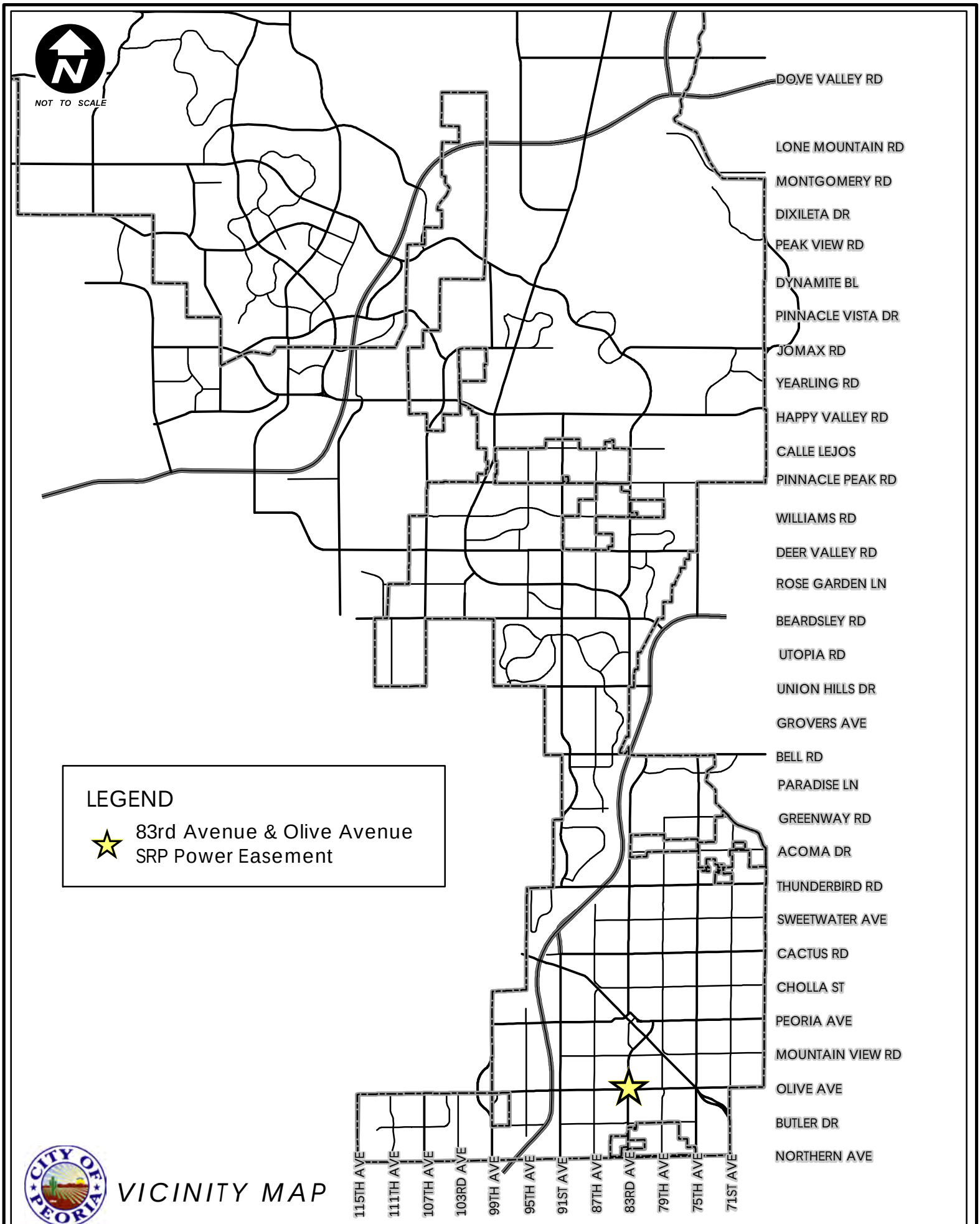
Narrative:

Recordation of this easement will allow SRP to relocate their power line and provide a public record of the existence and location of the line. Once the line is relocated, SRP will abandon the existing easement to the City.

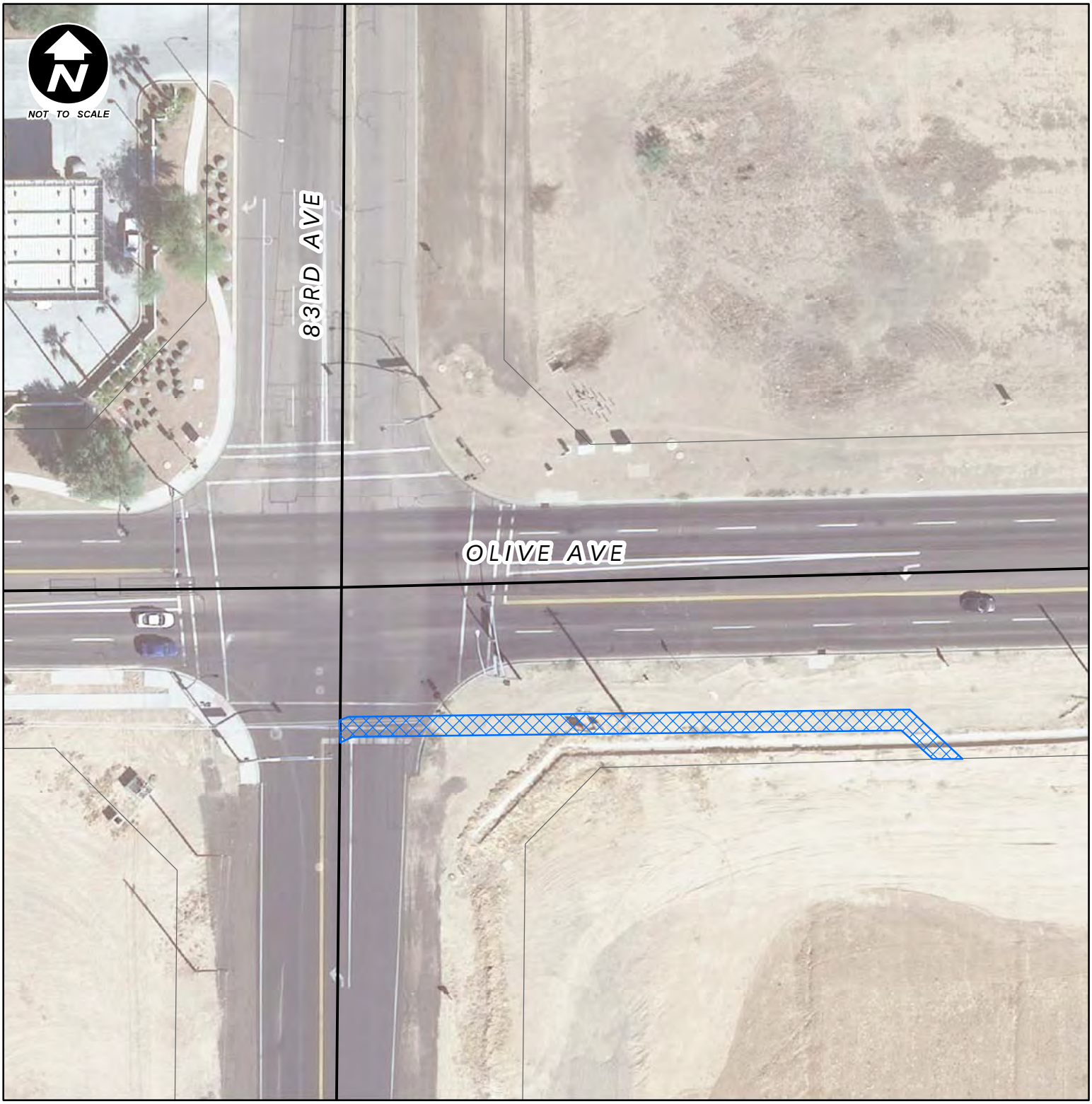
Exhibit(s):

Exhibit 1: Vicinity Map
Exhibit 2: Location Map
Exhibit 3: Resolution

Contact Name and Number: Kris Luna, Sr Real Property Administrator, (623) 773-7199



VICINITY MAP



LEGEND

Power Easement

City of Peoria
83rd Ave & Olive Ave
SRP Power Easement
Location Map

CITY OF PEORIA

GIS
Geographic Information Systems
CITY OF PEORIA
ARIZONA

NOTE:
This Map is based on imprecise source data, subject to change and FOR GENERAL REFERENCE ONLY.

RESOLUTION NO. 2012-32

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AUTHORIZING THE GRANTING OF AN OVERHEAD AND UNDERGROUND POWER DISTRIBUTION EASEMENT TO SALT RIVER PROJECT FOR THE RELOCATION OF EXISTING UTILITY LINES AT THE INTERSECTION OF 83RD AND OLIVE AVENUES.

WHEREAS, the City of Peoria has requested that Salt River Project relocate an existing overhead utility line to accommodate roadway improvements on 83rd and Olive Avenues. They have agreed to do so upon the granting of an easement for the location of the new utility lines.

WHEREAS, Pursuant to Article I, Section III of the Peoria City Charter, the City Council may convey any right, title or interest in any real property in such terms as the City Council determines to be appropriate and necessary; and

WHEREAS, Pursuant to the Peoria City Charter and in accordance with the findings set forth above, the Mayor and Council of the City of Peoria consent to the granting of this Easement and authorize the City Manager to execute the document; and

THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Peoria, Arizona authorize the granting of the attached Easement to Salt River Project, and authorize the City Manager to execute the Easement.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona this 20th day of March, 2012.

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

Attachment:

1. SRP Easement

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT
Land Department/PAB400
P. O. Box 52025
Phoenix, Arizona 85072-2025

OVERHEAD AND UNDERGROUND POWER DISTRIBUTION EASEMENT

Maricopa County
NW ¼, Sec. 35, T3N, R1E

Agt. SCF
Job # KJ2-700 PV/11/12
W [redacted] C [redacted]

THE CITY OF PEORIA,
an Arizona 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 a line of poles with wires suspended thereon and all necessary and proper guys, anchorage, crossarms, braces, underground electrical conductors, underground conduits, pipes, cables, vaults, pads, switching equipment, enclosures, manholes, transformers and all other appliances, appurtenances and fixtures for the transmission and distribution of electricity, and for all other purposes connected therewith (collectively "Facilities") at such locations and elevations, in, upon, over, under, across, through and along the Grantor's Property, 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 Easement Parcel. 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.

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:
A portion of the Northwest Quarter of Section 35, Township 3 North, Range 1 East, Gila and Salt River Meridian, Maricopa County, Arizona.

Easement Parcel:
Said easement being that portion more particularly described on EXHIBIT A, (prepared by Salt River Project A.I. & Power District), 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. Notice is also hereby given that any activity performed within the Easement Parcel shall comply with the Arizona Overhead Powerline Safety Law, Arizona Revised Statutes 40-360.41-45.

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.

IN WITNESS WHEREOF, THE CITY OF PEORIA, an Arizona municipal corporation, has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, 20____.

THE CITY OF PEORIA,
an Arizona municipal corporation,

_____
By: Carl Swenson

Its: City Manager_____

APPROVED AS TO FORM:

_____
Stephen M. Kemp,
City Attorney for the City of Peoria

ATTEST:

_____
Wanda Nelson City Clerk

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, personally appeared _____, the _____, of THE CITY OF PEORIA, an Arizona municipal corporation, and such authorized representative acknowledged that this document was executed on behalf of the corporation for the purposes therein contained.

_____
Notary Public

My Commission Expires:

_____

_____
(Notary Stamp/Seal)

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1132 and 11-1133 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and (A)(3).

EXHIBIT "A"

LEGAL DESCRIPTION
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

Underground Electric Easement
Assessor Parcel: Right-of-Way
Section 35, T-3-N, R-1-E

Job Number: KJ2-700
Job Name: 83rd Ave Rdwy. & Drainage Imp.
Date: November 15, 2011

A portion of the Northwest Quarter of Section 35, Township 3 North, Range 1 East, Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Northwest corner of said Section 35, being a brass cap in hand hole, and from which the West Quarter corner of said Section 35, being a pipe, bears South 00 degrees 32 minutes 30 seconds West, a distance of 2587.00 feet (Basis of Bearing);

thence South 00 degrees 32 minutes 30 seconds West along the west line of the Northwest Quarter of said Section 35, a distance of 53.47 feet to the **POINT OF BEGINNING**;

thence departing the west line of the Northwest Quarter of said Section 35, North 65 degrees 47 minutes 19 seconds East, a distance of 3.76 feet;

thence North 89 degrees 19 minutes 50 seconds East, a distance of 225.55 feet;

thence South 47 degrees 17 minutes 29 seconds East, a distance of 28.68 feet to the south line of a 75 foot Right-of-Way also being the north line of Lot 1 per Book 1022 Page 49 on file with the Maricopa County Recorder;

thence South 88 degrees 33 minutes 31 seconds West along the south line of said 75 foot Right-of-Way also being the north line of Lot 1 per Book 1022 Page 49 on file with the Maricopa County Recorder, a distance of 11.49 feet;

thence departing the south line of said 75 foot Right-of-Way also being the north line of Lot 1 per Book 1022 Page 49 on file with the Maricopa County Recorder, North 47 degrees 17 minutes 29 seconds West, a distance of 17.26 feet;

thence South 89 degrees 19 minutes 50 seconds West, a distance of 220.70 feet;

thence South 65 degrees 47 minutes 19 seconds West, a distance of 5.78 feet to the west line of the Northwest Quarter of said Section 35;

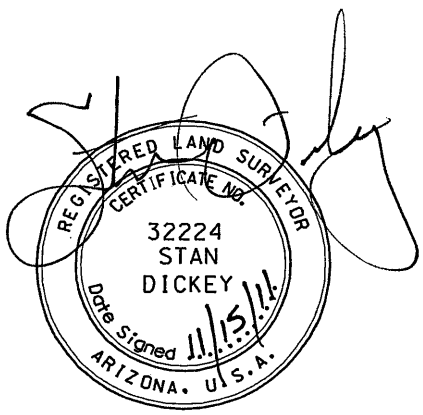
thence North 00 degrees 32 minutes 30 seconds East along the west line of the Northwest Quarter of said Section 35, a distance of 8.81 feet to the **POINT OF BEGINNING.**

PC 1/1/12

This easement contains 2006 square feet more or less.

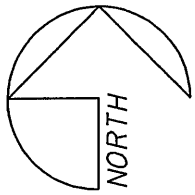
Points denoted "found" herein were observed during a survey conducted during the month of November, 2011. No survey of the parent parcel was conducted to facilitate the drafting of this description. Resultant measurements shown herein were determined from record documents as noted.

END OF DESCRIPTION



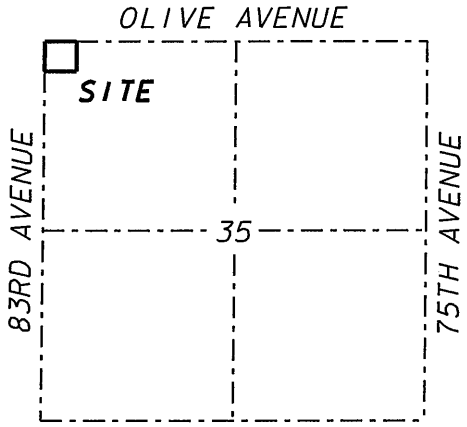
REGISTRATION
EXPIRES: 03-31-13

EXHIBIT "A"



NTS

VICINITY MAP



NTS

THIS EASEMENT CONTAINS
2006 SQUARE FEET
MORE OR LESS.

LEGEND

NOTE: SYMBOLS MAY NOT BE TO DRAWING SCALE, SO AS TO BETTER ENHANCE GRAPHICAL REPRESENTATION

— · — · — · —	SECTION AND CENTERLINE
———	PROPERTY LINE
▨	EASEMENT AREA
△	SECTION CORNER AS NOTED
(M)	MEASURED
(R)	RECORD
(C)	CALCULATED
BCHH	BRASS CAP IN HAND HOLE
MCR	MARICOPA COUNTY RECORDER
NTS	NOT TO SCALE
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
R/W	RIGHT-OF-WAY

SRP JOB #
KJ2-700

AMP W/O #
81066070

NOTE

THIS EXHIBIT IS INTENDED TO ACCOMPANY AN EASEMENT. ALL PARCELS SHOWN WERE PLOTTED FROM RECORD INFORMATION, AND NO ATTEMPT HAS BEEN MADE TO VERIFY THE LOCATION OF ANY BOUNDARIES SHOWN. THIS IS NOT AN ARIZONA BOUNDARY SURVEY.

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 STATUES, SECTION 40-380.21, ET. SEQ., ARIZONA BLUE STAKE LAW, PRIOR TO ANY EXCAVATION.

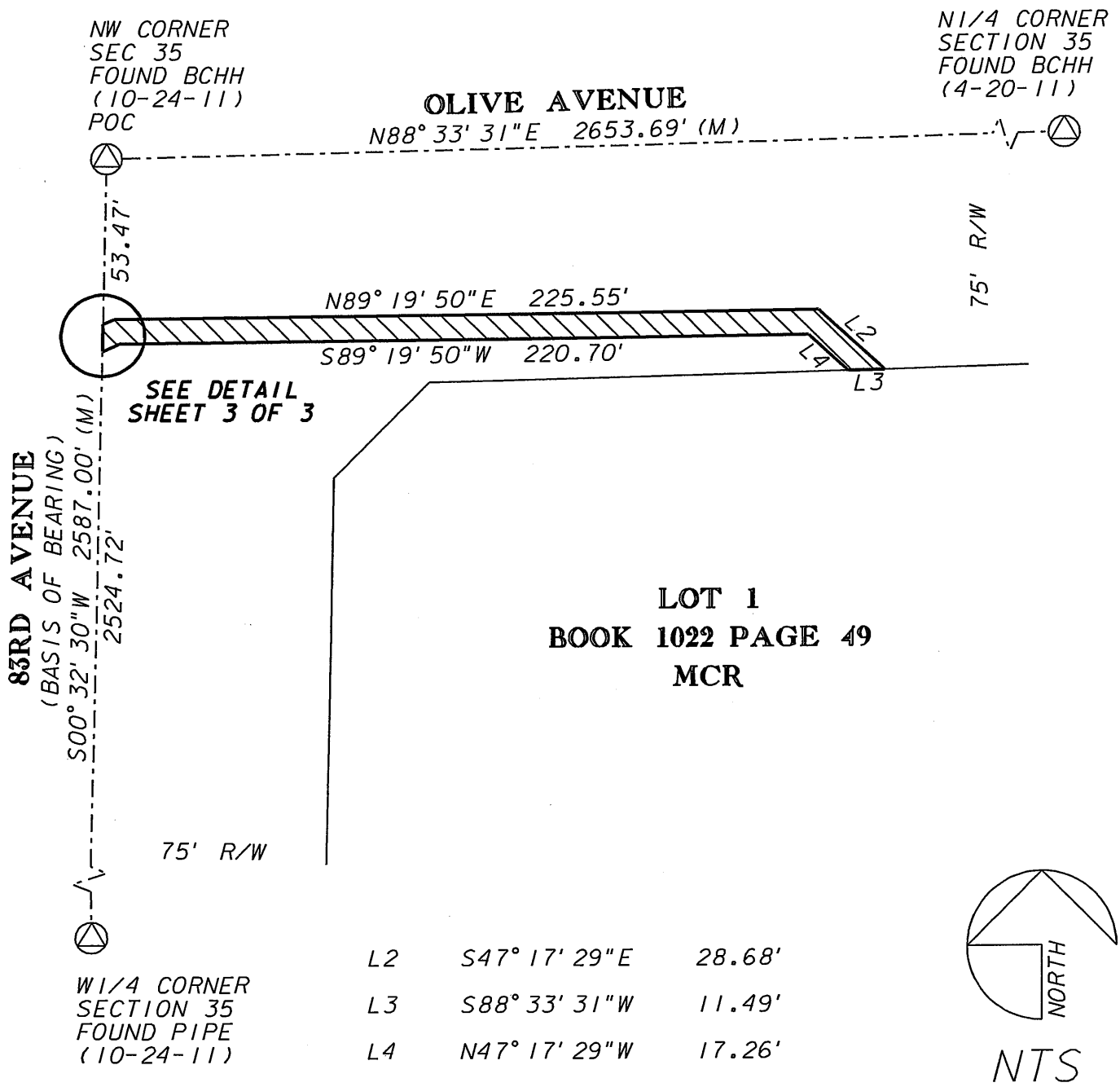
SALT RIVER PROJECT A.I.
& POWER DISTRICT

83RD AVE RDWY & DRAINAGE IMP
NW1/4 SEC 35 T3N R1E

UNDERGROUND ELECTRIC
POWER LINE RIGHT-OF-WAY
MARICOPA COUNTY, ARIZONA

DESIGNED	CALDERON	AGENT	FURROW
DRAWN	RAUSER	APPROVED:	[redacted]
DATE	11-15-11	CHECKED BY:	KG
SCALE	NTS	SHEET	3 OF 5

EXHIBIT "A"



L2	S47° 17' 29"E	28.68'
L3	S88° 33' 31"W	11.49'
L4	N47° 17' 29"W	17.26'

83RD AVE RDWY & DRAINAGE IMP
NW1/4 SEC 35 T3N R1E

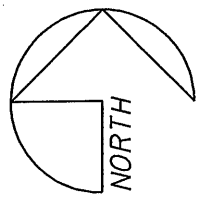
UNDERGROUND ELECTRIC
POWER LINE RIGHT-OF-WAY
MARICOPA COUNTY, ARIZONA

DESIGNED	CALDERON
DRAWN	RAUSER
DATE	11-15-11
SCALE	NTS

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
& POWER DISTRICT

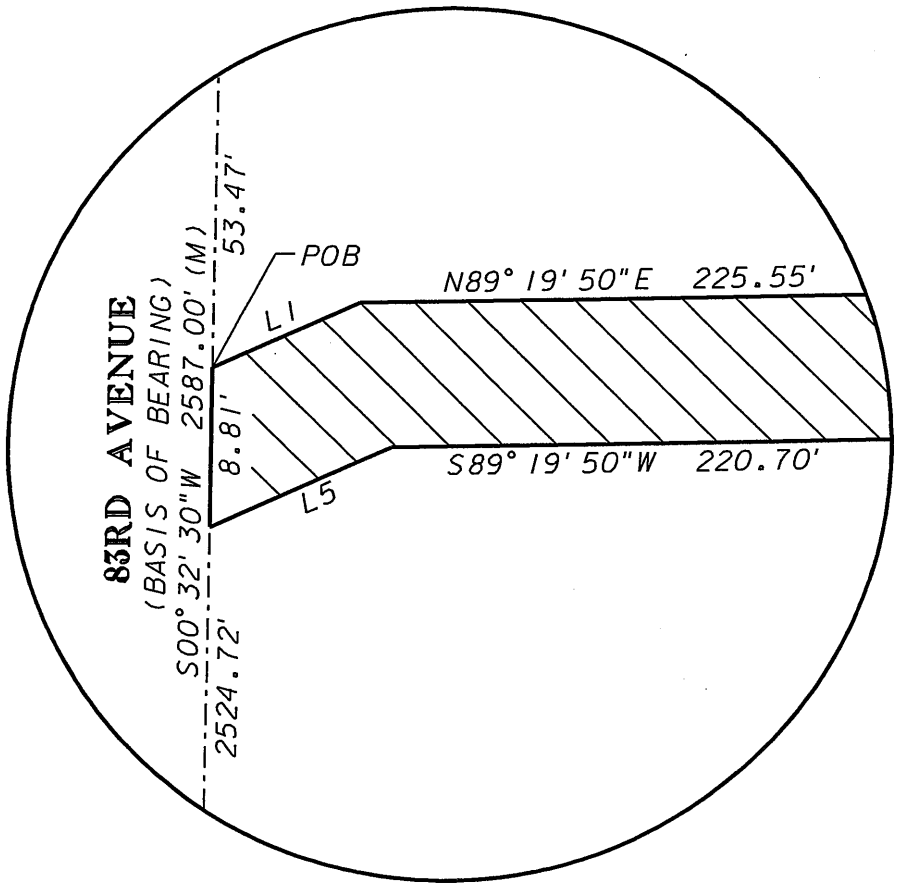
AGENT	FURROW
APPROVED:	[redacted]
CHECKED BY:	KG
SHEET	4 OF 5

EXHIBIT "A"



NTS

DETAIL



L1	N65° 47' 19"E	3.76'
L5	S65° 47' 19"W	5.78'

83RD AVE RDWY & DRAINAGE IMP
NW1/4 SEC 35 T3N R1E

UNDERGROUND ELECTRIC
POWER LINE RIGHT-OF-WAY
MARICOPA COUNTY, ARIZONA

DESIGNED	CALDERON
DRAWN	RAUSER
DATE	11-15-11
SCALE	NTS

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
& POWER DISTRICT

AGENT	FURROW
APPROVED:	[redacted]
CHECKED BY:	KG
SHEET	5 OF 5

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 9C

Date Prepared: February 27, 2012 **Council Meeting Date:** March 20, 2012

TO: Carl Swenson, City Manager

FROM: Andrew Granger, P. E., Engineering Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Salt River Project Irrigation Easement, 75th Avenue and Thunderbird Road Intersection Widening Project

---

Purpose:

This is a request for City Council to authorize the execution of an Irrigation Easement to Salt River Project (SRP) for the relocation and maintenance of irrigation facilities associated with the construction of the 75th Avenue and Thunderbird Road Intersection Widening Project.

Background/Summary:

Relocation of public utilities associated with the construction of the 75th Avenue and Thunderbird Road Intersection Widening Project are underway. To allow the relocation of the irrigation structure at the southwest corner of the intersection during the current SRP annual dry-up season, modifications were made to the irrigation design which included connections to pipes outside of existing irrigation easements.

Previous Actions:

SRP agreed to relocate the irrigation structure per the modified irrigation design and have requested that the City grant them an easement for the irrigation pipes that cross City owned property.

Options:

A: City Council authorizes the execution and recordation of the Easement.

B: City Council chooses not to authorize the easement resulting in no public record of the existence or location of SRP's irrigation facilities.

Staff's Recommendation:

Staff recommends the adoption of a Resolution authorizing the City Manager to execute the SRP easement.

Fiscal Analysis:

There is no fiscal impact to the City associated with granting this easement.

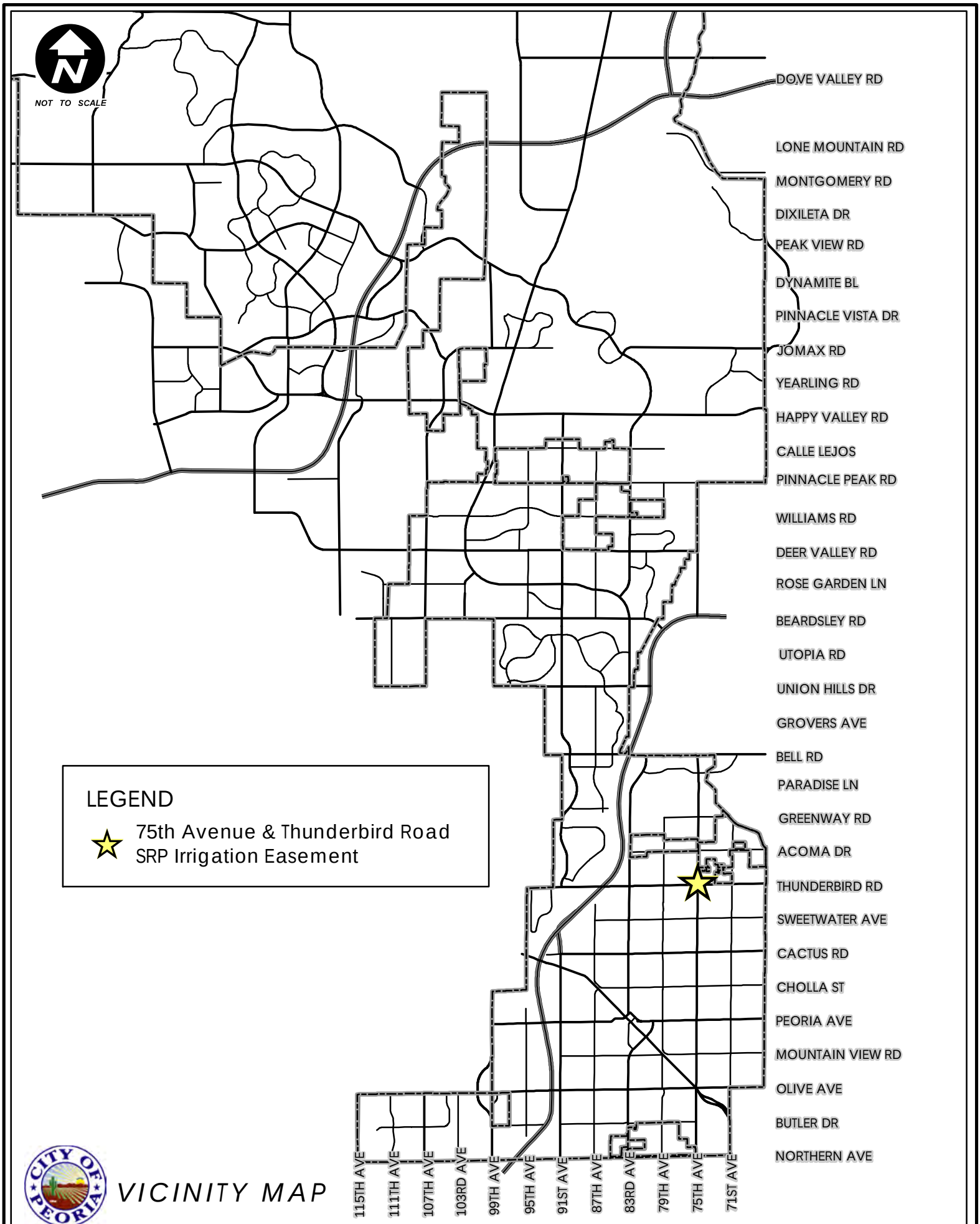
Narrative:

Recordation of this easement will provide a public record of the existence and location of SRP's irrigation facilities.

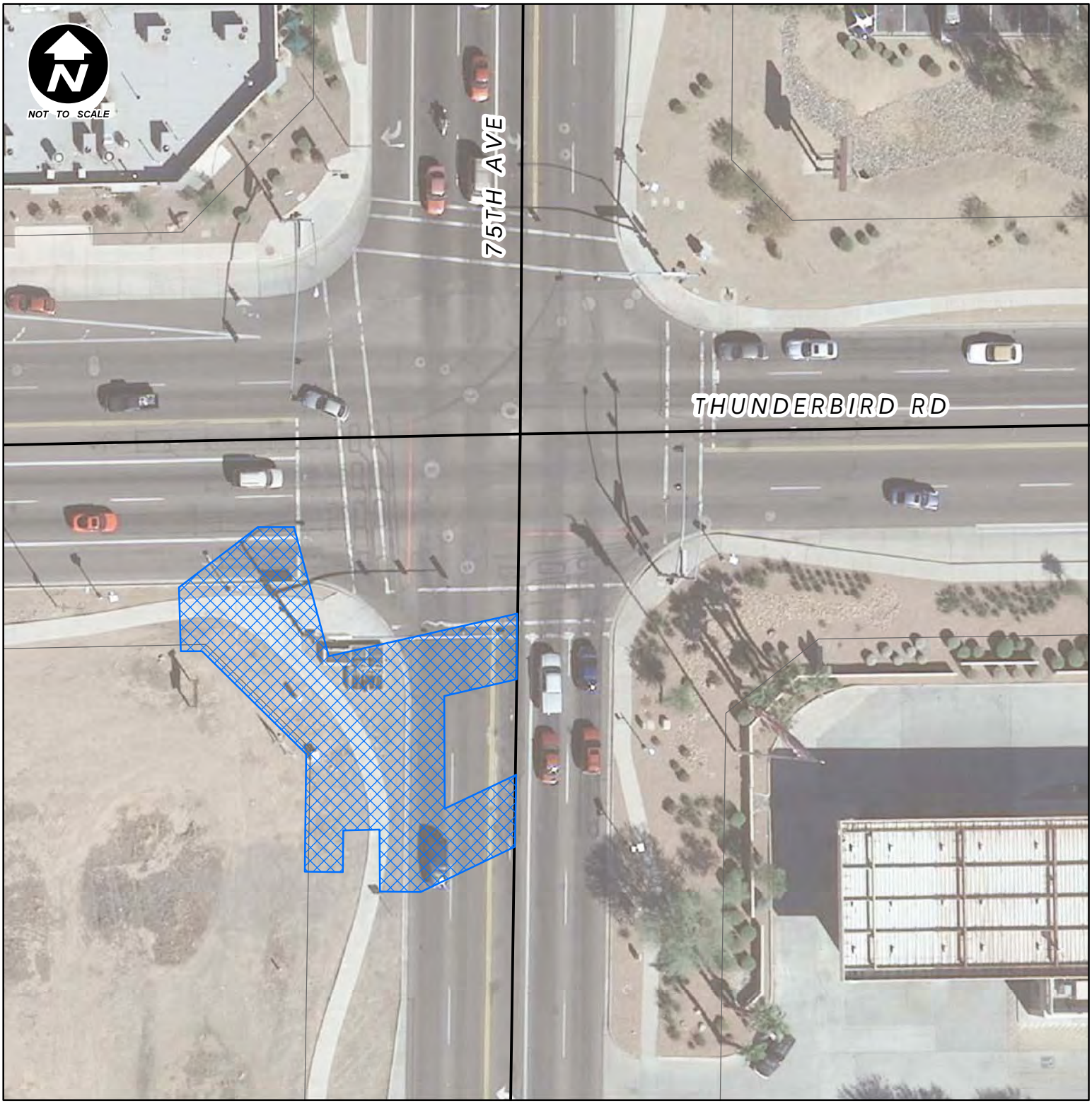
Exhibit(s):

Exhibit 1: Vicinity Map
Exhibit 2: Location Map
Exhibit 3: Resolution

Contact Name and Number: Kris Luna, Sr Real Property Administrator, (623) 773-7199



VICINITY MAP



LEGEND

Irrigation Easement

City of Peoria
75th Ave & Thunderbird Rd
SRP Irrigation Easement
Location Map

CITY OF PEORIA

GIS
Geographic Information Systems
CITY OF PEORIA
ARIZONA

NOTE:
This Map is based on imprecise source data, subject to change and FOR GENERAL REFERENCE ONLY.

RESOLUTION NO. 2012-31

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AUTHORIZING THE GRANTING OF AN EASEMENT TO SALT RIVER PROJECT FOR THE RELOCATION OF EXISTING IRRIGATION FACILITIES IN THE VICINITY OF 75TH AVENUE AND THUNDERBIRD ROAD.

WHEREAS, the City of Peoria has requested Salt River Project relocate an irrigation structure to accommodate the intersection widening of 75th Avenue and Thunderbird Road. Connections that were required for the relocation of the new structure are not within an easement and Salt River Project has requested the City of Peoria grant them an easement.

WHEREAS, Pursuant to Article I, Section III of the Peoria City Charter, the City Council may convey any right, title or interest in any real property in such terms as the City Council determines to be appropriate and necessary; and

WHEREAS, Pursuant to the Peoria City Charter and in accordance with the findings set forth above, the Mayor and Council of the City of Peoria consent to the granting of this Easement and authorize the City Manager to execute the document; and

THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Peoria, Arizona authorize the granting of the attached Easement to Salt River Project, and authorize the City Manager to execute the Easement.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona this 20th day of March, 2012.

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

Attachment:

1. SRP Easement

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT
Land Department/PAB350
P. O. Box 52025
Phoenix, Arizona 85072-2025

IRRIGATION EASEMENT

Maricopa County
Parcel #231-15

R/W # 74 Agt. PAR
Job # RD-029[redacted]
W [redacted] C [redacted]

KNOW ALL MEN BY THESE PRESENTS:

That

CITY OF PEORIA, ("Grantor"),
a municipal corporation

FOR AND IN CONSIDERATION OF THE SUM of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, do hereby grant to the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, ("Grantee"), an agricultural improvement district organized and existing under the laws of the State of Arizona, its successors and assigns, for itself and on behalf of the United States of America and as manager of the federal Salt River Reclamation Project, the right, easement and privilege to construct, reconstruct, operate and maintain an irrigation pipeline and irrigation turnout structure together with all the necessary and appurtenant facilities through, over, under and across the following described property:

Exhibit "A" attached hereto and made by reference a part hereof.

Grantor shall not convey any easements or grant any permits within the easement areas in which the facilities do not comply with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof.

Grantor shall not erect, construct or permit to be erected or constructed any building or other structure, plant any trees, drill any well, install swimming pools, or alter ground level by cut or fill, within the limits of said rights of way, which do not comply with said Exhibit **B**.

Grantee shall have the right, but not the obligation, to erect, maintain and use gates in all fences which now cross said rights of way and to trim, cut and clear away trees or brush whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby granted.

The Grantee shall at all times have the right of full and free ingress and egress to said easement for the purpose heretofore specified.

Grantor and Grantee acknowledge that from time to time Grantee may find it necessary to construct, reconstruct, operate and maintain irrigation facilities and appurtenant conveniences lying within the easement areas.

Grantor shall pay Grantee all costs and expenses of any relocation of the irrigation facilities requested by Grantor, including but not limited to, the relocation of the facilities into the easement area described above.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purpose herein granted, all rights herein granted shall cease and revert to the Grantors, their heirs or assigns.

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, successors in ownership and estate, assigns and lessees of the respective parties hereto.

Notwithstanding any of the aforesaid provisions, the easement rights granted herein shall be further subject to the following covenants, restrictions and conditions:

1. Grantor reserves the right to construct, install, operate, maintain, repair, replace and reinstall surface parking areas, driveways, roadways, sidewalks, curbs and gutters, landscaping, irrigation lines and street lighting on the surface of the easement areas.

2. Grantor reserves the right to construct and install public utilities, and to grant easements and permits for public utility purposes, in, upon, under, over and across the easement areas subject to compliance with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof.

3. In the event that any repair, maintenance, replacement or installation of the irrigation facilities and appurtenant conveniences will cause a disturbance or a disruption of any public street or paved roadway, Grantee shall notify Grantor, pursuant to existing practices, before Grantee undertakes any such action. In the event of an emergency, Grantee shall have use of any public street or paved roadway as it reasonably deems necessary and appropriate to correct, repair, replace or reconstruct irrigation facilities affected by the emergency and notify Grantor, pursuant to existing practices, as soon as practical after responding to the emergency. Grantee shall provide for advance warning signs, barricades, flagmen, flares, and other devices when necessary to protect the roadway user as set forth in the "Manual on Uniform Traffic Control Devices" and any amendments and/or revisions thereto.

4. Grantor shall warrant and defend the rights, easements and privileges hereby granted and the priority of this easement against all persons whomsoever.

IN WITNESS WHEREOF, **THE CITY OF PEORIA,** a municipal corporation, has caused its name to be executed by its duly authorized representative(s) this _____ day of _____, _____.

THE CITY OF PEORIA,
a municipal corporation

By: _____
Carl Swenson
Its: City Manager

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney
City of Peoria

ATTEST:

_____
Wanda Nelson, City Clerk

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, _____, before me, the undersigned, personally appeared _____, the _____, of **THE CITY OF PEORIA**, a municipal corporation, and such authorized representative acknowledged that this document was executed on behalf of the corporation for the purposes therein contained.

_____
Notary Public

My Commission Expires:

_____

_____
Notary Stamp/Seal

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1132 and 11-1133 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and (A)(3).

PREMIER
ENGINEERING CORPORATION

EXHIBIT A

LEGAL DESCRIPTION: SRP TEMPORARY IRRIGATION EASEMENT

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 3 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

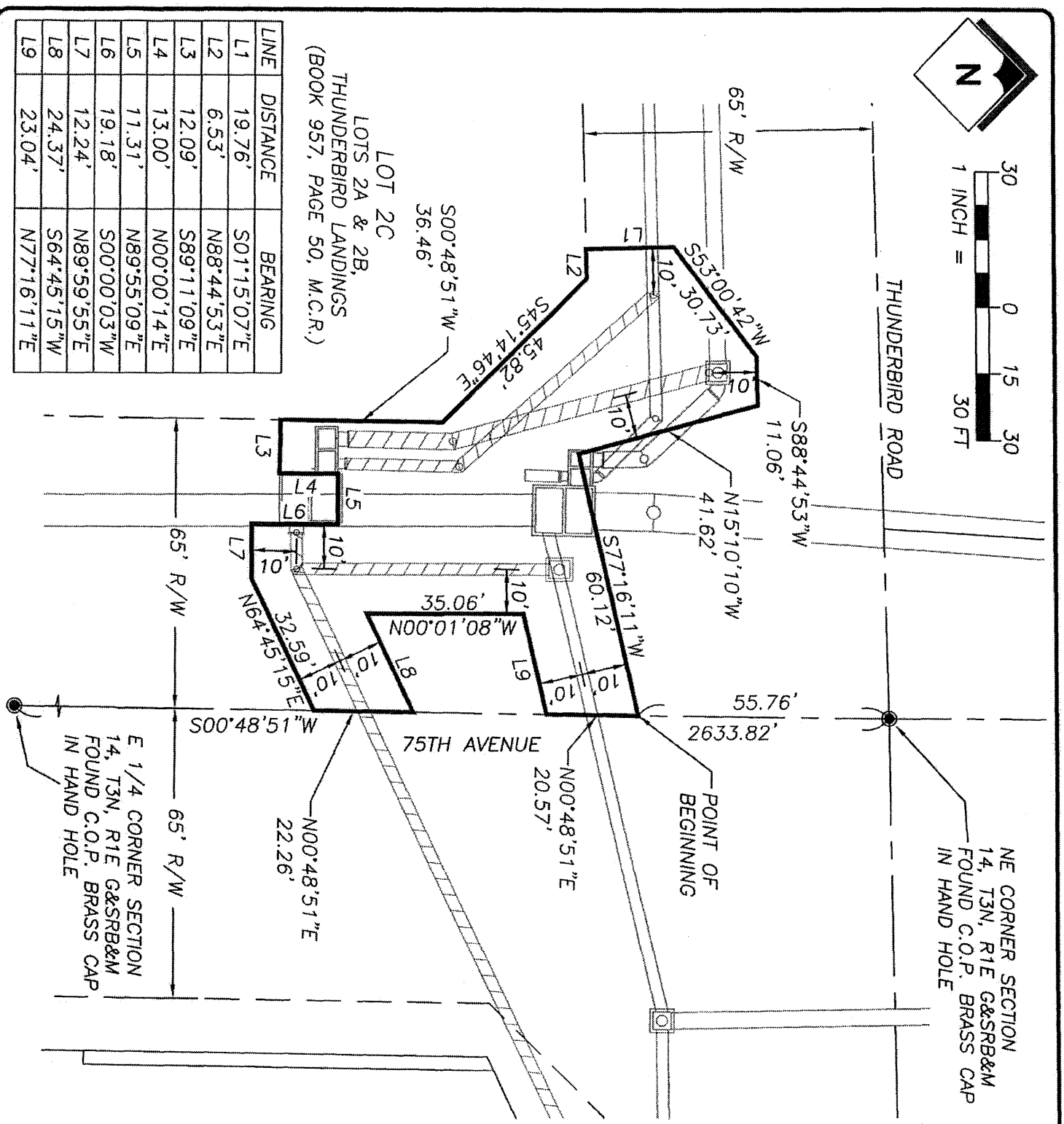
COMMENCING AT A CITY OF PEORIA BRASS CAP IN HAND HOLE MARKING THE NORTHEAST CORNER OF SECTION 14, FROM WHENCE A CITY OF PEORIA BRASS CAP IN HAND HOLE MARKING THE EAST QUARTER CORNER OF SAID SECTION 14 LIES SOUTH 00°48'51" WEST A DISTANCE OF 2633.82 FEET; THENCE SOUTH 00°48'51" WEST, ALONG THE EAST LINE OF SAID SECTION 14, A DISTANCE OF 55.76 FEET TO THE **POINT OF BEGINNING;**

THENCE SOUTH 77°16'11" WEST, 60.12 FEET; THENCE NORTH 15°10'10" WEST, 41.62 FEET; THENCE SOUTH 88°44'53" WEST, 11.06 FEET; THENCE SOUTH 53°00'42" WEST, 30.73 FEET; THENCE SOUTH 01°15'07" EAST, 19.76 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THUNDERBIRD ROAD; THENCE NORTH 88°44'53" EAST, ALONG SAID RIGHT-OF-WAY LINE, 6.53 FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, SOUTH 45°14'46" EAST, 45.82 FEET TO THE WEST RIGHT-OF-WAY LINE OF 75TH AVENUE; THENCE SOUTH 00°48'51" WEST ALONG SAID WEST RIGHT-OF-WAY LINE , 36.46 FEET; THENCE SOUTH 89°11'09" EAST, 12.09 FEET; THENCE NORTH 00°00'14" EAST, 13.00 FEET; THENCE NORTH 89°55'09" EAST, 11.31 FEET; THENCE SOUTH 00°00'03" WEST, 19.18 FEET; THENCE NORTH 89°59'55" EAST, 12.24 FEET; THENCE NORTH 64°45'15" EAST, 32.59 FEET, TO SAID EAST LINE OF SECTION 14; THENCE NORTH 00°48'51" EAST, ALONG SAID EAST LINE, 22.26' FEET; THENCE SOUTH 64°45'15" WEST, 24.37 FEET; THENCE NORTH 00°01'08" WEST, 35.06 FEET; THENCE NORTH 77°16'11" EAST, 23.04 FEET TO SAID EAST LINE OF SECTION 14; THENCE NORTH 00°48'51" EAST ALONG SAID EAST LINE, 20.57 FEET TO THE **POINT OF BEGINNING**.

(CONTAINING 5,802 SQUARE FEET, 0.13 ACRE, MORE OR LESS)

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
39783
MARK A.
LUOND
Date Signed 02/14/12
ARIZONA, U.S.A.
Expires 09/30/12

6437 W. Chandler Blvd., Suite 1 • Chandler, AZ 85226 • (480) 829-6000 • Fax (480) 829-6016



LINE	DISTANCE	BEARING
L1	19.76'	S01°15'07"E
L2	6.53'	N88°44'53"E
L3	12.09'	S89°11'09"E
L4	13.00'	N00°00'14"E
L5	11.31'	N89°55'09"E
L6	19.18'	S00°00'03"W
L7	12.24'	N89°59'55"E
L8	24.37'	S64°45'15"W
L9	23.04'	N77°16'11"E

EXHIBIT A

A PORTION OF

75th AVE. AND THUNDERBIRD RD.

SRP TEMPORARY IRRIGATION EASEMENT

SECTION 14, T3N, R1E

PROJECT No.	DRAWN BY	DATE
2011029	DMH	FEB., 2012
PAGE No.	CHECKED BY	
2 OF 2	MAL	

CITY OF PEORIA

PREMIER
ENGINEERING CORPORATION
6437 W CHANDLER BLVD, STE 1
CHANDLER, AZ 85226

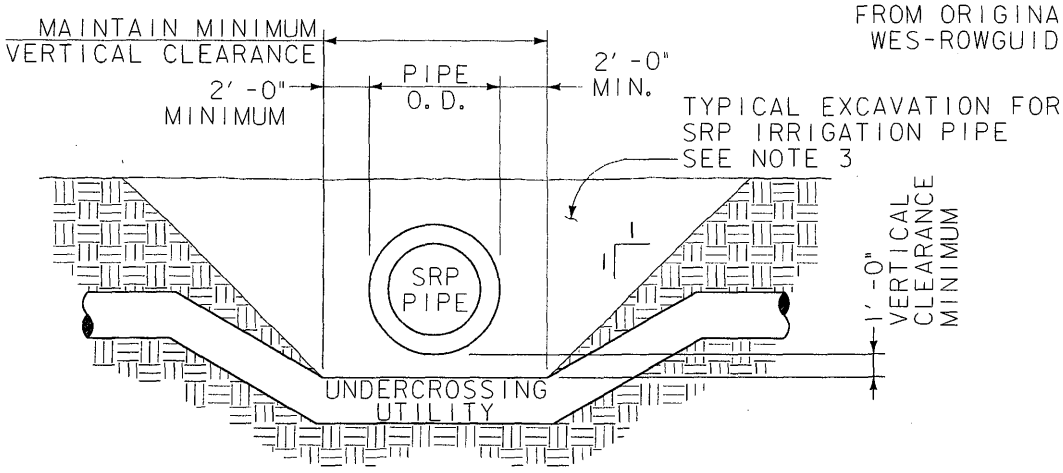
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
39783
MARK A.
LUOND
Date Signed: 02/14/12
ARIZONA, U.S.A.
EXPIRES 9-30-2012

EXHIBIT B

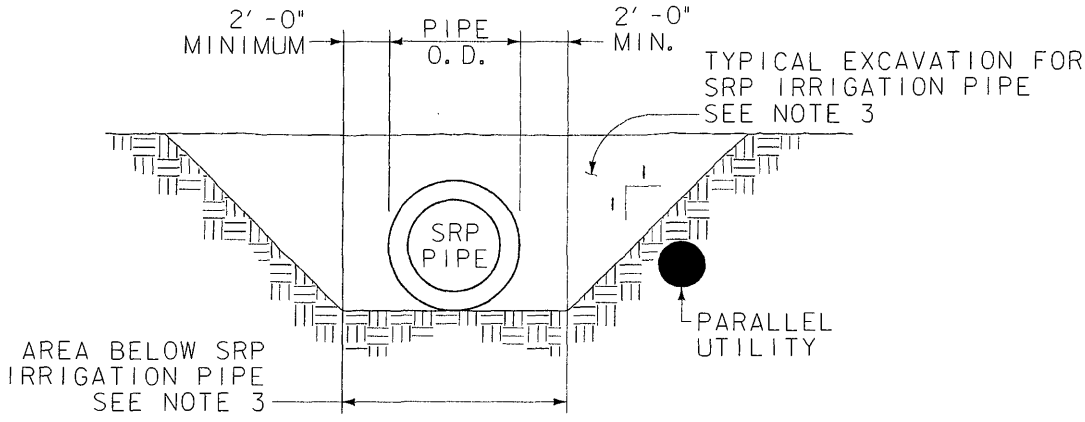
(PAGE 1 OF 2)

REV NO.	DATE
5	06/08/11

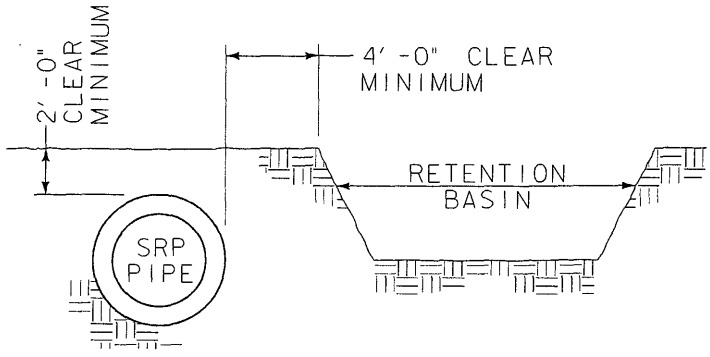
DWG REFERENCED FROM ORIGINAL WES-ROWGUIDE



PIPELINE - UTILITY CROSSING



PIPELINE - PARALLEL UTILITY



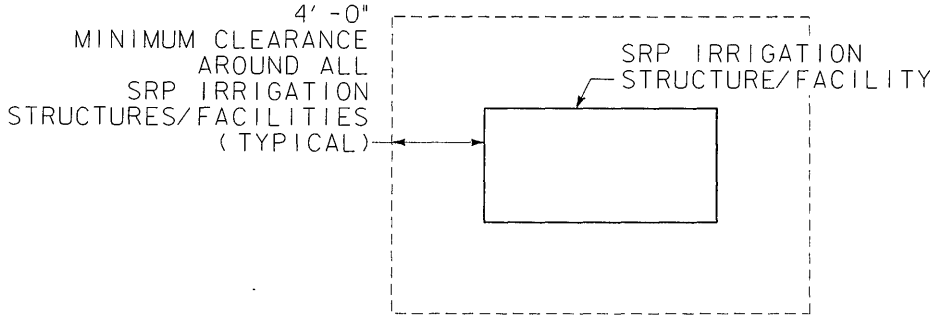
PIPELINES - RETENTION BASIN

EXHIBIT B

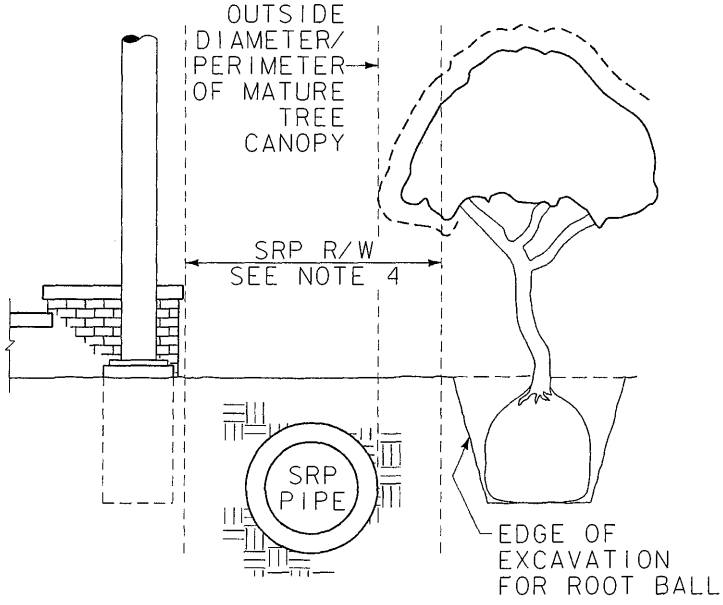
(PAGE 2 OF 2)

REV NO.	DATE
5	06/08/11

DWG REFERENCED FROM ORIGINAL WES-ROWGUIDE



IRRIGATION STRUCTURE/FACILITY CLEARANCE



PIPELINES - LANDSCAPING

NOTES

1. THESE GUIDELINES ARE PROVIDED AS A GENERAL AID TO PLANNING. ACTUAL SRP REQUIREMENTS MAY VARY BASED ON SITE-SPECIFIC CONDITIONS, OPERATIONAL CONSIDERATIONS, ETC.
2. AN SRP LICENSE IS REQUIRED FOR UTILITIES CROSSING/PARALLEL TO SRP IRRIGATION PIPE IN SRP RIGHT-OF-WAY. SRP REQUIRES ENGINEER DESIGNED UTILITY CROSSING/LOCATION AND EXCAVATION PLAN.
3. OTHER UTILITIES ARE NOT PERMITTED IN THESE AREAS.
4. SRP MAY LICENSE LIMITED USES OF ITS RIGHT-OF-WAY SUCH AS PARKING, SIDEWALK, LAWN, ETC. POLES, STRUCTURES AND TREES ARE TYPICALLY NOT PERMITTED IN SRP RIGHT-OF-WAY. INCLUDE DESIGN DRAWINGS FOR PROPOSED USE WHEN SUBMITTING REQUEST TO SRP FOR LICENSE.
5. REQUESTS FOR SRP LICENSES ARE HANDLED ON A CASE-BY-CASE BASIS. CONTACT SRP AT 602-236-5799 REGARDING LICENSES FOR SITES LOCATED NORTH AND SOUTH OF THE SALT RIVER.

Agenda Item: 10C

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Date Prepared: February 14, 2012 **Council Meeting Date: March 20, 2012**

TO: **Carl Swenson, City Manager**

FROM: **Scott Whyte, Economic Development Services Director**

THROUGH: **Susan J. Daluddung, Deputy City Manager**

SUBJECT: **Replat, Blackstone at Vistancia Parcel B3, Blackstone Drive and Lone Mountain Road (Project No. R050148B)**

Purpose:

This is a request for City Council to approve a Replat of Blackstone at Vistancia Parcel B3, located on Blackstone Drive north of Lone Mountain Road, and authorize the Mayor and City Clerk to sign and record the Replat with the Maricopa County Recorder's Office subject to the following stipulations:

1. In the event that the Replat is not recorded within 60 days of Council approval, the Replat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Replat is to adjust lot lines for four residential parcels in a previously platted subdivision. This Replat does not create any additional lots.

Previous Actions:

The Final Plat was reviewed by the City and completed in May 2006 and recorded in Book 843 Page 2.

Options:

A: The Replat has been approved through the Economic Development Services Department. An option would be to not accept the proposed Replat; although it should be noted that not approving the Replat will prevent the homebuilder from constructing the desired product.

B: The other option would be to formally approve the Replat and allow the homebuilder to construct the desired homes on these lots.

Staff's Recommendation:

Staff recommends the approval and subsequent recordation of the attached Replat.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Replat.

Narrative:

The acceptance of this Replat by City Council will allow the homebuilder to move forward in constructing on these lots.

Exhibit(s):

Exhibit 1: Replat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, PE, CFM: 623-773-7577

RE-PLAT OF

BLACKSTONE AT VISTANCIA PARCEL B3

A RE-PLAT OF LOTS 11, 12, 30, AND 31 OF BLACKSTONE AT VISTANCIA PARCEL B3 BOOK 843 PAGE 2, M.C.R. BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DEDICATION

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

KNOW ALL MEN BY THESE PRESENTS:

THAT RBC REAL ESTATE FINANCE INC., A DELAWARE CORPORATION, AND SHEA HOMES OF PHOENIX, INC., (FN) AKA SHEA HOMES, INC., A DELAWARE CORPORATION, AS OWNERS, HAVE SUBDIVIDED UNDER THE NAME OF "RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3," BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS PLATTED HEREON, AND HEREBY PUBLISHES THIS RE-PLAT AS AND FOR THE PLAT OF SAID "RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3" DESCRIBED HEREON, AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE LOTS, STREETS AND EASEMENTS CONSTITUTING SAME AND THAT EACH LOT, STREET AND EASEMENT SHALL BE KNOWN BY THE NUMBER OR NAME GIVEN TO EACH RESPECTIVELY ON SAID PLAT.

OWNERS HEREBY DEDICATE TO THE CITY FOR USE AS SUCH THE PUBLIC UTILITY EASEMENTS (P.U.E.) AS SHOWN HEREON AND INCLUDED IN THE ABOVE-DESCRIBED PREMISES. MAINTENANCE OF THE P.U.E. IS THE RESPONSIBILITY OF THE FRONTING PROPERTY OWNER.

AS USED HEREIN, THE TERM "MAINTENANCE CORPORATION DECLARATION" SHALL MEAN AND REFER TO THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR VISTANCIA, DATED JULY 9, 2003 AND RECORDED JULY 9, 2003, INSTRUMENT NO. 2003-0886772, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, AS FROM TIME TO TIME THEREAFTER SUPPLEMENTED AND/OR AMENDED; AND THE TERM "MAINTENANCE CORPORATION" SHALL MEAN AND REFER TO VISTANCIA MAINTENANCE CORPORATION, AN ARIZONA NON-PROFIT CORPORATION.

AS USED HEREIN, THE TERM "BLACKSTONE DECLARATION" SHALL MEAN AND REFER TO THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR BLACKSTONE AT VISTANCIA, DATED JULY 1, 2005 AND RECORDED AUGUST 11, 2005, INSTRUMENT NO. 2005-1147499, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, AS FROM TIME TO TIME THEREAFTER SUPPLEMENTED AND/OR AMENDED; AND, THE TERM "BLACKSTONE ASSOCIATION" SHALL MEAN AND REFER TO BLACKSTONE AT VISTANCIA COMMUNITY ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION.

OWNERS HEREBY DECLARE THAT EFFECTIVE AS OF THE DATE OF THE RECORDATION OF THIS RE-PLAT, THE PROPERTY WITHIN "RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3" SHALL BE HELD, SOLD, CONVEYED, ENCUMBERED, HYPOTHECATED, LEASED, USED, OCCUPIED AND IMPROVED SUBJECT TO THE FOLLOWING RESTRICTIONS: THE PRIVATE STREETS DEPICTED ON THIS PLAT SHALL BE PRIVATE AND SHALL NOT BE DEDICATED TO PUBLIC USE UNTIL SUCH TIME AS ALL OWNERS (I.E. 100%) OF THE LOTS WITHIN "RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3" AS PLATTED HEREON VOTE TO APPROVE SUCH STREETS BEING DEDICATED TO PUBLIC USE AND SUCH DEDICATION IS ACCEPTED BY THE CITY. IF THE DEDICATION OF SUCH STREETS TO PUBLIC USE IS APPROVED BY 100% OF SUCH OWNERS AND ACCEPTED BY THE CITY, THE CITY WILL REQUIRE (AS A CONDITION TO ITS ACCEPTANCE OF SUCH DEDICATION), THAT SUCH STREETS SHALL BE UPGRADED TO THE THEN-CURRENT CITY STANDARDS, AT NO EXPENSE TO THE CITY (I.E. SUCH UPGRADING SHALL BE AT THE EXPENSE OF SUCH OWNERS AND/OR A HOMEOWNERS' ASSOCIATION THAT INCLUDES SUCH OWNERS). THIS RESTRICTION MAY BE AMENDED ONLY UPON THE WRITTEN CONSENT OF THE CITY AND ALL OWNERS (I.E., 100%) OF THE LOTS WITHIN "RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3" AS PLATTED HEREON.

LANDSCAPING AND OTHER IMPROVEMENTS (OTHER THAN UTILITY IMPROVEMENTS, MAINTENANCE OF WHICH SHALL BE THE RESPONSIBILITY OF THE UTILITY PROVIDER) WITHIN EACH P.U.E. SHALL BE MAINTAINED BY THE OWNER OF LOT OR TRACT ON WHICH SUCH P.U.E. IS LOCATED.

OWNER HEREBY GRANTS TO THE CITY THE EASEMENTS SHOWN HEREON AS (A) "U.V.E." OR "UNOBSTRUCTED VIEW EASEMENT" OR "S.V.E." OR "SIGHT VISIBILITY EASEMENT" FOR PURPOSES SET FORTH IN NOTE 16 OF THIS "FINAL RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3," AND ACCESS AND MAINTENANCE ASSOCIATED THEREWITH, AND (B) "D.E." OR "DRAINAGE EASEMENT," FOR PURPOSES OF DRAINAGE SERVICES AND RELATED STRUCTURES AND FACILITIES, AND ACCESS AND MAINTENANCE ASSOCIATED THEREWITH.

VISTANCIA LLC HEREBY GRANTS TO THE OWNERS OF LOT 11 ("THE BENEFITED OWNERS") A PERMANENT, PERPETUAL AND NON-EXCLUSIVE PEDESTRIAN (I.E., NON-VEHICULAR) EMERGENCY ACCESS EASEMENT (THE "EMERGENCY ACCESS EASEMENT") UPON, OVER AND ACROSS THE PORTION OF TRACT "B" AND GAIN ACCESS TO A COMMON AREA (AS DEFINED IN THE BLACKSTONE DECLARATION) WITHIN THIS "FINAL RE-PLAT OF BLACKSTONE AT VISTANCIA PARCEL B3" IF AN EMERGENCY EXISTS WITHIN SUCH LOT THAT PREVENTS A BENEFITED OWNER FROM EXITING HIS LOT VIA THE FRONT DOOR OF THE RESIDENTIAL UNIT CONSTRUCTED THEREON. THE BENEFITED OWNER SHALL MAINTAIN IN GOOD WORKING CONDITION A GATE IN THE LOCATION AND OF THE SAME MATERIALS AND COLORS AS INITIALLY CONSTRUCTED THAT PROVIDES ACCESS FROM THE BENEFITED OWNER'S REAR YARD TO THE EMERGENCY ACCESS EASEMENT AREA. VISTANCIA LLC SHALL NOT CONSTRUCT OR INSTALL ANY IMPROVEMENTS (INCLUDING LANDSCAPING) THAT WOULD PREVENT A BENEFITED OWNER FROM USING THE EMERGENCY ACCESS EASEMENT IN A REASONABLE MANNER FOR EMERGENCY PURPOSES. A BENEFITED OWNER SHALL NOT ALTER, REMOVE, REPLACE OR DISTURB ANY LANDSCAPING OR OTHER IMPROVEMENTS WITHIN THE EMERGENCY ACCESS EASEMENT AREA.

OWNERS HEREBY GRANT TO THE BLACKSTONE ASSOCIATION AND APPLICABLE OWNERS OF LOTS THE EASEMENTS SHOWN HEREON AS "W.M.E." OR "WALL MAINTENANCE EASEMENT," FOR PURPOSES OF PAINTING, MAINTENANCE, REPAIR AND REPLACEMENT OF PERIMETER FENCING AND PARTY WALLS, ALL AS MORE PARTICULARLY SET FORTH IN SECTION 4.2(F) OF THE BLACKSTONE DECLARATION.

IN WITNESS WHEREOF:

RBC REAL ESTATE FINANCE INC., A DELAWARE CORPORATION, AND SHEA HOMES OF PHOENIX, INC., (FN) AKA SHEA HOMES, INC., A DELAWARE CORPORATION, AS OWNERS, HAVE HEREUNTO CAUSED THEIR NAME TO BE SIGNED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF THE UNDERSIGNED OFFICERS, THEREUNTO DULY AUTHORIZED.

BY RBC REAL ESTATE FINANCE INC., A DELAWARE CORPORATION

BY: ____________________ DATE: ______________

ITS: ______________________________

BY SHEA HOMES OF PHOENIX, INC., (FN) AKA SHEA HOMES INC., A DELAWARE CORPORATION

BY: ____________________ DATE: ______________

ITS: ______________________________

ACKNOWLEDGEMENT

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

ON THIS THE ______ DAY OF ____________, 2012, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED ____________________ PERSONALLY KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

IN WITNESS WHEREOF:

I HEREBY SET MY HAND AND OFFICIAL SEAL

BY: ____________________ MY COMMISSION EXPIRES: ______________
NOTARY PUBLIC DATE

LEGAL DESCRIPTION

LOTS 11, 12, 30 AND 31 OF BLACKSTONE AT VISTANCIA PARCEL B3, AS RECORDED IN BOOK 843 OF MAPS, PAGE 2, RECORDS OF MARICOPA COUNTY, ARIZONA.

NOTES

1. THE SUBDIVISION IS SUBJECT TO A MAINTENANCE IMPROVEMENT DISTRICT (MID)# 1046 AND THE REQUIREMENTS THEREOF.
2. NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, WIRE, OR REMOVABLE SECTION TYPE FENCING, AND/OR PAVING, NOR ANY PLANTING EXCEPT GRASS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF PEORIA SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION.
3. ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 69 KVA, CABLE T.V., TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC. SHALL BE INSTALLED UNDERGROUND AS PART OF THE STREET IMPROVEMENTS, AS REQUIRED BY THE ARIZONA CORPORATION COMMISSION GENERAL ORDERS U-48 AND R-14-2-133
4. ALL LOT CORNERS SHALL BE MONUMENTED WITH 1/2" REBAR AND CAPPED OR TAGGED, PRIOR TO RECORDING OF THIS PLAT, BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
5. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING A 100-YEAR ASSURED WATER SUPPLY.
6. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA SEWER SERVICE AREA.
7. THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A MILITARY AIRPORT.
8. THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A DESIGNATED TRUCK ROUTE. LONE MOUNTAIN ROAD IS DESIGNATED AS A TRUCK ROUTE BY THE CITY OF PEORIA.
9. THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A ROCK QUARRY (GRAVEL OPERATION).
10. NO STRUCTURE OF ANY KIND BE CONSTRUCTED OR ANY VEGETATION BE PLANTED, NOR BE ALLOWED TO GROW WITHIN THE DRAINAGE EASEMENT CREATED BY THIS PLAT OR TRACT TO BE USED FOR DRAINAGE PURPOSES AS SET FORTH ON THIS PLAT, IF SUCH STRUCTURE OR VEGETATION WOULD IMPEDE THE FLOW OF WATER OVER, UNDER, OR THROUGH SUCH EASEMENT OR TRACT AS REQUIRED BY THE DRAINAGE PLANS APPROVED BY THE CITY WITH RESPECT TO THE SUBJECT PROPERTY.
11. SIGNS, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHRUBS, HEDGES OR OTHER PLANTS, BUT EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN UNOBSTRUCTED VIEW EASEMENTS (UVE) OR THE SIGHT VISIBILITY EASEMENTS (SVE). NO LIMBS, LEAVES, NEEDLES OR OTHER FOLIAGE ABOVE 30 INCHES IN HEIGHT OR BELOW 84 INCHES ARE PERMITTED. TREES ARE TO BE PLANTED SO AS NOT TO OBSTRUCT 20% OF THE VISIBILITY WHEN COMBINED WITH OTHER OBSTRUCTIONS. THE CITY TRACT A EASEMENT INCLUDES THE RIGHT TO CUT BACK AND TRIM SUCH PORTION OF BRANCHES AND TOPS OF TREES GROWING OR THAT PREVENT HEREAFTER GROW UPON, AND/OR MAY EXTEND OVER THE CITY EASEMENT, SO AS TO PREVENT THE SAME FROM INTERFERING WITH THE EFFICIENT USE OF THE CITY TRACT "A" EASEMENT.
12. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 04013C0740 H DATED SEPTEMBER 30, 2005 THE SUBJECT PROPERTY IS LOCATED IN ZONE X. ZONE X IS DESCRIBED AS "AREAS OF 500-YEAR FLOOD; AREAS OF 100-YEAR FLOOD AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 100-YEAR FLOOD."
13. THE UNDERLYING ZONING FOR THE SUBJECT PROPERTY IS PCD WITH A VRA-3 DESIGNATION. THE ASSOCIATED BULK REQUIREMENTS (HEIGHT, SETBACK, ETC.) FOR THIS ZONE SHALL APPLY.
14. NO EXCAVATION OR GRADING WORK SHALL BE PERFORMED ON THE DESIGNATED LOT WITHOUT THE PRIOR WRITTEN APPROVAL OF THE DESIGN REVIEW COMMITTEE (AS SUCH TERM IS DEFINED IN THE BLACKSTONE DECLARATION). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AFTER THE DESIGNATED LOT HAS BEEN GRADED AND IMPROVED IN ACCORDANCE WITH DRAINAGE, GRADING AND OTHER IMPROVEMENT PLANS THEREFOR APPROVED BY THE MASTER DEVELOPER AND THE APPLICABLE GOVERNMENTAL AUTHORITIES AND UTILITIES, THE OWNER OF THE DESIGNATED LOT SHALL NOT PERFORM ANY EXCAVATION OR GRADING, OR TAKE ANY OTHER ACTION, WHICH WOULD HAVE THE EFFECT OF IMPEDING OR DIVERTING DRAINAGE OF SURFACE WATER RUNOFF TO OR FROM ANY PORTION OF VISTANCIA (AS SUCH TERM IS DEFINED IN THE MAINTENANCE CORPORATION DECLARATION) INCLUDING FROM THE BLACKSTONE COUNTRY CLUB (AS SUCH TERM IS DEFINED IN THE BLACKSTONE DECLARATION) ON AND ACROSS SUCH OWNER'S LOT OR TRACT IF SUCH GRADING WOULD CAUSE ANY DAMAGE TO ADJACENT LOT, TRACT, OR TRACT WALLS.

REPLAT NARRATIVE:

LOTS 11 AND 31 WERE ADJUSTED TO A WIDTH OF 38 FEET TO ACCOMMODATE THE DEVELOPER'S DESIRED PRODUCT.

BASIS OF BEARING:

THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 1 WEST HAVING A BEARING OF SOUTH 89° 42' 16" WEST AS SHOWN ON THE AMENDED RESULTS OF SURVEY RECORDED IN BOOK 632 OF MAPS, PAGE 24, RECORDS OF MARICOPA COUNTY, ARIZONA.

ACKNOWLEDGEMENT

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

ON THIS THE ______ DAY OF ____________, 2012, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED ____________________ PERSONALLY KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

IN WITNESS WHEREOF:

I HEREBY SET MY HAND AND OFFICIAL SEAL

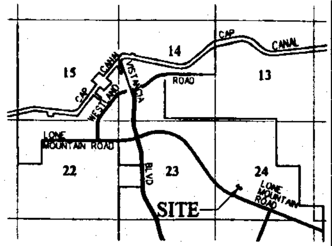
BY: ____________________ MY COMMISSION EXPIRES: ______________
NOTARY PUBLIC DATE

PREPARED BY:

COE & VAN LOO CONSULTANTS, INC.
4550 NORTH 12TH STREET
PHOENIX, ARIZONA 85014
PH:(602) 264-6831
FAX:(602) 264-0888
CONTACT: LARRY SULLIVAN

OWNER/DEVELOPER:

SHEA HOMES OF PHOENIX, INC. (FN)/
SHEA HOMES INC.
8800 NORTH GAINEY CENTER DRIVE
SUITE 350
SCOTTSDALE, ARIZONA 85258
PHONE: (623) 215-6204
FAX: (623) 215-6224
CONTACT: MATT HITE



VICINITY MAP
(NOT TO SCALE)

BLACKSTONE ASSOCIATION RATIFICATION AND CONSENT

THE UNDERSIGNED HEREBY RATIFIES AND CONSENTS TO THIS PLAT, INCLUDING ITS MAINTENANCE OBLIGATIONS AS SET FORTH HEREIN.

BLACKSTONE AT VISTANCIA COMMUNITY ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION

BY: ____________________ DATE: ______________

ITS: ____________________

ACKNOWLEDGEMENT FOR RATIFICATION

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

ON THIS, THE _____ DAY OF ____________________, 2012, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED ____________________, WHO ACKNOWLEDGED HIM/HERSELF TO BE ____________________ OF BLACKSTONE AT VISTANCIA COMMUNITY ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION, AND THAT HE/SHE, AS SUCH OFFICER, BEING DULY AUTHORIZED TO DO SO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED BY SIGNING THIS NAME AS SUCH OFFICER ON BEHALF OF THE FOREGOING.

IN WITNESS WHEREOF I HEREBY SET MY HAND AND OFFICIAL SEAL:

NOTARY PUBLIC: ____________________

MY COMMISSION EXPIRES: ______________

APPROVAL

APPROVED BY THE MAYOR AND CITY COUNCIL OF PEORIA, ARIZONA, ON THIS

______ DAY OF ________________ 2012.

BY: ____________________ ______________
MAYOR DATE

ATTEST: ____________________ ______________
CITY CLERK DATE

____________________ ______________
FOR CITY ENGINEER DATE

CERTIFICATION

I, LARRY E. SULLIVAN, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA, THAT THIS PLAT, CONSISTING OF TWO (2) SHEETS, CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF NOVEMBER, 2011, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN, THAT THEIR POSITIONS ARE CORRECTLY SHOWN AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

BY: ____________________
LARRY E. SULLIVAN
REGISTERED LAND SURVEYOR
REGISTRATION #22782
COE & VAN LOO CONSULTANTS, INC.

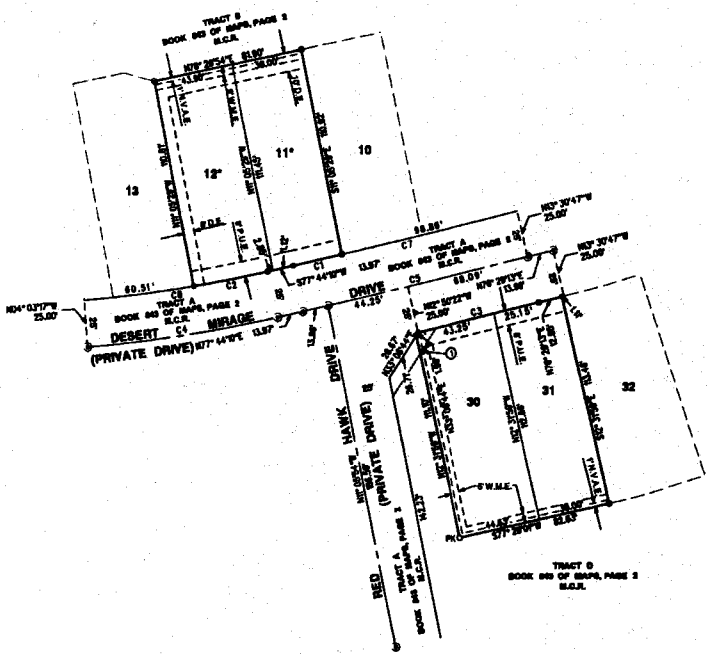
R050148B

SHEET 1 OF 2

SEE SHEET 2 FOR LOT AREAS, DETAILS & LEGEND	GROSS AREA = 0.423 AC.	COE & VAN LOO CONSULTANTS, INC. 4550 N. 12TH STREET PHOENIX, AZ 85014 (602) 264-6831

LOT AREA TABLE

LOT-11	=	4,888 S.F.	0.107 AC.
LOT-12	=	4,888 S.F.	0.112 AC.
LOT-30	=	5,085 S.F.	0.111 AC.
LOT-31	=	4,888 S.F.	0.112 AC.
TOTAL	=	19,549 S.F.	0.448 AC.

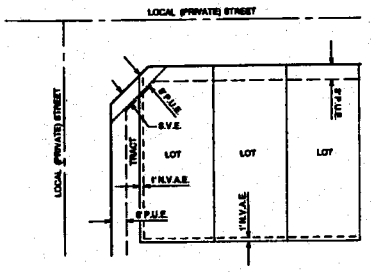


LEGEND

- INDICATES SECTION CORNER - FOUND BRASS CAP IN HANDHOLE (UNLESS OTHERWISE NOTED).
- INDICATES CORNER OF THIS SUBDIVISION - FOUND NAIL WITH TAG L.S.#26770 (UNLESS OTHERWISE NOTED).
- INDICATES CORNER OF THIS SUBDIVISION - FOUND 1/2" IRON BAR WITH NO IDENTIFICATION - APPROXIMATE CAP L.S.#22782 (UNLESS OTHERWISE NOTED).
- INDICATES CORNER OF THIS SUBDIVISION - FOUND 1/2" IRON BAR WITH CAP L.S.#36770 (UNLESS OTHERWISE NOTED).
- PK — INDICATES CORNER OF THIS SUBDIVISION - SET NAIL WITH TAG L.S.#22782.
- INDICATES EXISTING BRASS CAP (UNLESS OTHERWISE NOTED).
- C1 — INDICATES CURVE NUMBER
- N.V.A.E. — INDICATES NON-VEHICULAR ACCESS EASEMENT
- P.U.E. — INDICATES PUBLIC UTILITY EASEMENT
- M.C.R. — INDICATES MARICOPA COUNTY RECORDS
- D.E. — INDICATES DRAINAGE EASEMENT
- W.M.E. — INDICATES WALL MAINTENANCE EASEMENT
- S.V.E. — INDICATES SIGHT VISIBILITY EASEMENT
- 11* — INDICATES LOT SUBJECT TO DRAINAGE EASEMENT
- 1 — INDICATES SIGHT VISIBILITY EASEMENT
- INDICATES BOUNDARY LINE
- INDICATES CENTERLINE
- S.F. — INDICATES SQUARE FEET
- AC. — INDICATES ACRES

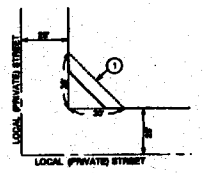
CURVE TABLE

NO.	RADIUS	ARC	DELTA	TANGENT	CHORD	CHORD-BEARING
1	5767.91	29.88	000°17'03"	14.94	29.88	S77°38'06.5"W
2	788.89	41.86	003°13'06"	20.93	41.85	S76°13'13.5"W
3	5817.91	68.40	000°40'25"	34.19	68.39	N76°49'35.5"E
4	788.89	105.18	008°12'33"	52.67	105.09	N81°30'16.5"E
5	5767.91	129.38	001°14'57"	64.69	129.37	N77°32'41.5"E
6	5817.91	68.40	000°40'25"	34.19	68.39	N76°49'35.5"E
7	5767.91	129.75	001°14'57"	64.88	129.74	S77°32'41.5"W
8	788.89	101.57	008°12'33"	50.87	101.48	S81°30'16.5"W



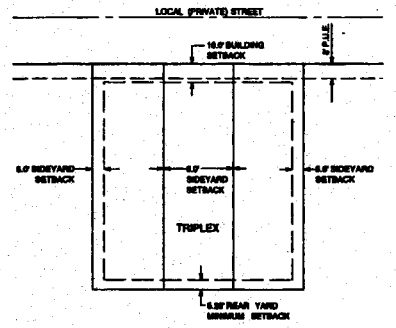
TYPICAL PUBLIC UTILITY EASEMENT (P.U.E.) DETAIL AT AN INTERSECTION

(NOT TO SCALE)



TYPICAL SIGHT VISIBILITY EASEMENT DETAIL

PER PERTIN DETAIL 160
(NOT TO SCALE)



PARCEL B-3 (VRA-3 ZONING)

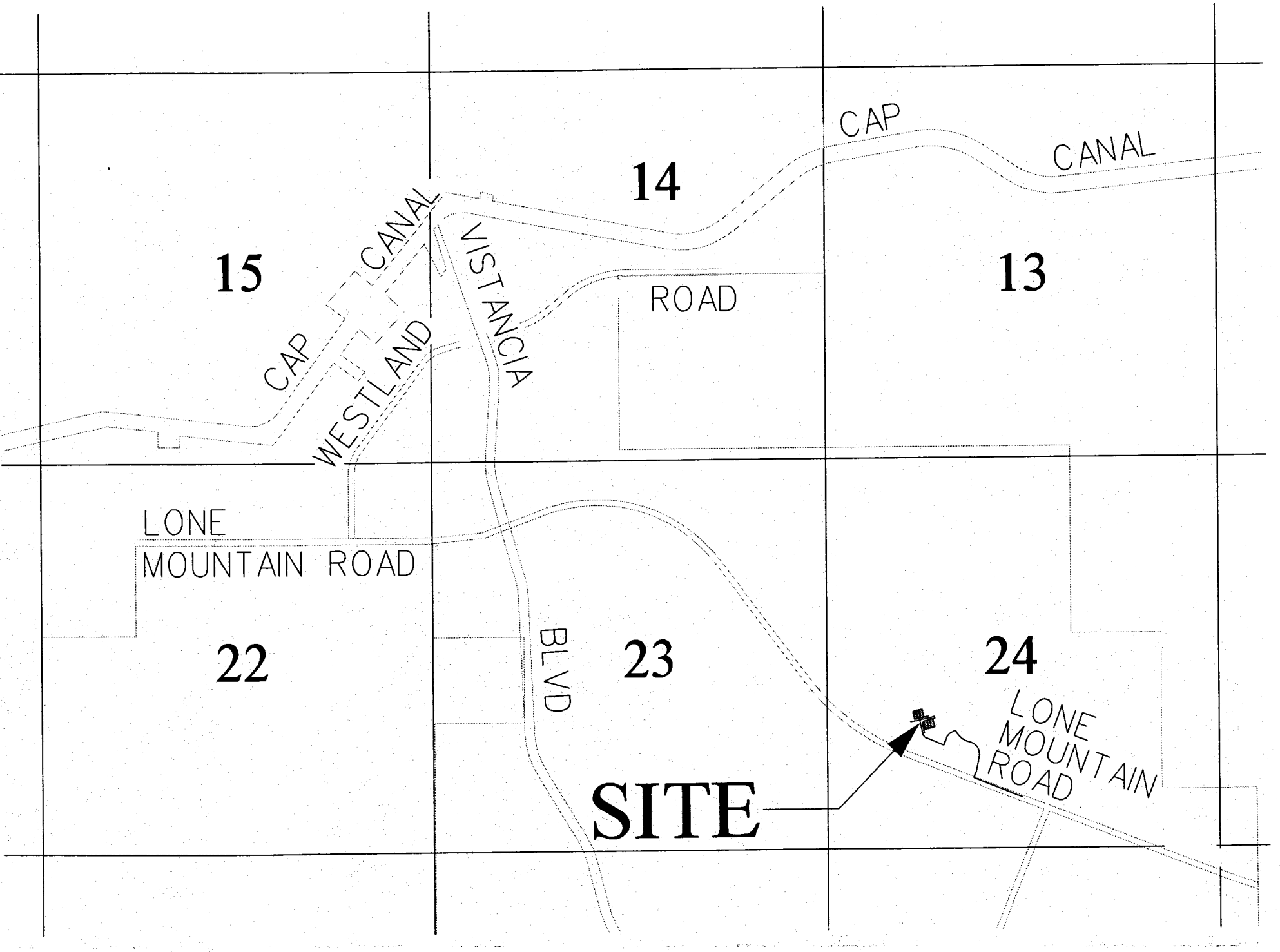
TYPICAL BUILDING SETBACK LINES
(NOT TO SCALE)

SHEET 2 OF 2

COE & VAN LOO CONSULTANTS, INC.
4550 N. 12TH STREET
PHOENIX, AZ 85014
(602) 264-6831

R050148B

BLACKSTONE AT VISTANCIA PARCEL B3 - FINAL RE-PLAT C.V.L. JOB# 07-0165809


15
14
13
22
23
24
CAP
CANAL
CAP
CANAL
WESTLAND
VISTANCIA
BLVD
ROAD
LONE
MOUNTAIN ROAD
LONE
MOUNTAIN
ROAD
SITE

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 11R

Date Prepared: March 06, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Brent Mattingly, Finance Director

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Public hearing: Proposed Recommendations by the City to the Arizona State Liquor Board for a new restaurant liquor license.

Purpose:

Pursuant to Arizona Law the City must recommend to the State Liquor Board for approval, applications to sell alcoholic beverages in the City. The Standard for the recommendation is whether the best interest of the community will be served by the issuance of this license and whether the public convenience is served.

Background/Summary:

Linda Quach, Agent for Lantern., has applied for a New Restaurant Liquor License (Series 12) located at 10738 N. 75th Avenue Suite B-7.

Previous Actions:

August 2007, the Mayor and Council recommended approval to Arizona State Liquor Board for Chilitos Cantina Inc for a new restaurant liquor license (Series 12) at 10738 N. 75th Avenue Suite B-7. Chiltitos Cantina Inc. never opened.

Options:

A: Recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Lantern, located at 10738 N. 75th Avenue Suite B-7, Linda Quach, Applicant, LL#20004652.
B: Recommend denial to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Lantern, located at 10738 N. 75th Avenue Suite B-7, Linda Quach, Applicant, LL#20004652.

Staff's Recommendation:

That the Mayor and Council recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Lantern, located at 10738 N. 75th Avenue Suite B-7, Linda Quach, Applicant, LL#20004652.

Fiscal Analysis:

The item has no financial implications.

Narrative:

The appropriate fees have been paid and the applicant has been advised that a representative needs to be present at the meeting to answer any questions that the Council or public may have.

Exhibit 1: New Liquor License Application.

Arizona Department of Liquor Licenses and Control
800 West Washington, 5th Floor
Phoenix, Arizona 85007
www.azliquor.gov
602-542-5141

APPLICATION FOR LIQUOR LICENSE

TYPE OR PRINT WITH BLACK INK

Notice: Effective Nov. 1, 1997, All Owners, Agents, Partners, Stockholders, Officers, or Managers actively involved in the day to day operations of the business must attend a Department approved liquor law training course or provide proof of attendance within the last five years. See page 5 of the Liquor Licensing requirements.

'12 JAN 27 Liq. Lic. PM 2:17

SECTION 1 This application is for a:

- ☐ MORE THAN ONE LICENSE
- ☐ INTERIM PERMIT *Complete Section 5*
- ☑ NEW LICENSE *Complete Sections 2, 3, 4, 13, 14, 15, 16*
- ☐ PERSON TRANSFER (Bars & Liquor Stores ONLY) *Complete Sections 2, 3, 4, 11, 13, 15, 16*
- ☐ LOCATION TRANSFER (Bars and Liquor Stores ONLY) *Complete Sections 2, 3, 4, 12, 13, 15, 16*
- ☐ PROBATE/WILL ASSIGNMENT/DIVORCE DECREE *Complete Sections 2, 3, 4, 9, 13, 16* (fee not required)
- ☐ GOVERNMENT *Complete Sections 2, 3, 4, 10, 13, 15, 16*

SECTION 2 Type of ownership:

- ☐ J.T.W.R.O.S. *Complete Section 6*
- ☐ INDIVIDUAL *Complete Section 6*
- ☐ PARTNERSHIP *Complete Section 6*
- ☐ CORPORATION *Complete Section 7*
- ☑ LIMITED LIABILITY CO. *Complete Section 7*
- ☐ CLUB *Complete Section 8*
- ☐ GOVERNMENT *Complete Section 10*
- ☑ TRUST *Complete Section 6*
- ☐ OTHER (Explain) _____

SECTION 3 Type of license and fees LICENSE #(s): 12079012

1. Type of License(s): Restaurant #12

2. Total fees attached: Department Use Only $ 148.00

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE.

The fees allowed under A.R.S. 44-6852 will be charged for all dishonored checks.

SECTION 4 Applicant

1. Owner/Agent's Name: Mr. Ms. Quach, Linda
(Insert one name ONLY to appear on license) Last First Middle

2. Corp./Partnership/L.L.C.: MQ Holdings LLC
(Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: ~~Big Buddha~~ Lantern
(Exactly as it appears on the exterior of premises)

4. Principal Street Location 10738 N. 75th Ave B-7 Peoria Maricopa
(Do not use PO Box Number) County Zip

5. Business Phone: ~~602-321-0323~~ [redacted] Daytime Contact: ~~Linda Quach~~ 85345

6. Is the business located within the incorporated limits of the above city or town? ☑ YES ☐ NO

7. Mailing Address: 5916 W Fetlock TR Phx AZ 85083
City State Zip

8. Price paid for license only bar, beer and wine, or liquor store: Type _____ $_____ Type _____ $_____

DEPARTMENT USE ONLY

Fees: 100.00 Application | _____ Interim Permit | _____ Agent Change | _____ Club | 48.00 Finger Prints $ | 148.00 TOTAL OF ALL FEES

Is Arizona Statement of Citizenship & Alien Status For State Benefits complete? ☒ YES ☐ NO

Accepted by: JB Date: 01-27-12 Lic. # 12079012

July 2010 *Disabled individuals requiring special accommodation, please call (602) 542-9027.

SECTION 5 Interim Permit:

1. If you intend to operate business when your application is pending you will need an Interim Permit pursuant to A.R.S. 4-203.01.
2. There MUST be a valid license of the same type you are applying for currently issued to the location.
3. Enter the license number currently at the location._____
4. Is the license currently in use? ☐ YES ☐ NO If no, how long has it been out of use?_____

ATTACH THE LICENSE CURRENTLY ISSUED AT THE LOCATION TO THIS APPLICATION.

I, _____, declare that I am the CURRENT OWNER, AGENT, CLUB MEMBER, PARTNER,
(Print full name)
MEMBER, STOCKHOLDER, OR LICENSEE (circle the title which applies) of the stated license and location.

State of _____ County of_____

X_____
(Signature)

The foregoing instrument was acknowledged before me this

_____day of _____, _____
Day Month Year

My commission expires on: _____

_____
(Signature of NOTARY PUBLIC)

'12 JAN 27 Liqr. Lic. PM 2:1

SECTION 6 Individual or Partnership Owners:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND $24 PROCESSING FEE FOR EACH CARD.

1. Individual:

Last	First	Middle	% Owned	Mailing Address	City State Zip

Partnership Name: (Only the first partner listed will appear on license) _____

General-Limited	Last	First	Middle	% Owned	Mailing Address	City State Zip
☐ ☐						
☐ ☐						
☐ ☐						
☐ ☐						

(ATTACH ADDITIONAL SHEET IF NECESSARY)

2. Is any person, other than the above, going to share in the profits/losses of the business? ☐ YES ☐ NO
If Yes, give name, current address and telephone number of the person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City, State, Zip	Telephone#

SECTION 7 Corporation/Limited Liability Co.:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND $24 PROCESSING FEE FOR EACH CARD.

☐ CORPORATION *Complete questions 1, 2, 3, 5, 6, 7, and 8.*

☑ L.L.C. *Complete 1, 2, 4, 5, 6, 7, and 8.*

1. Name of Corporation/L.L.C.: MQ Holdings LLC
   (Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: 6/17/2001 State where Incorporated/Organized: Arizona
3. AZ Corporation Commission File No.: _____ Date authorized to do business in AZ: _____
4. AZ L.L.C. File No: L-1684979 Date authorized to do business in AZ: 6/22/11
5. Is Corp./L.L.C. Non-profit? ☐ YES ☑ NO
6. List all directors, officers and members in Corporation/L.L.C.:

Last	First	Middle	Title	Mailing Address	City State Zip
Chu	Van	Vi	~~Manager~~ member	[redacted]	
Quach	Linda		~~Manager~~ member	[redacted]	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders who are controlling persons or who own 10% or more:

Last	First	Middle	% Owned	Mailing Address	City State Zip
Chu	Van	Vi	50	[redacted]	
Quach,	Linda		50	[redacted]	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach a percentage of ownership chart, and a director/officer/member disclosure for the parent entity. Attach additional sheets as needed in order to disclose personal identities of all owners.

SECTION 8 Club Applicants:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND $24 PROCESSING FEE FOR EACH CARD.

1. Name of Club: _____ Date Chartered: _____
   (Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)
2. Is club non-profit? ☐ YES ☐ NO
3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Bar or Liquor Store License:

1. Current Licensee's Name: _____ Last _____ First _____ Middle
(Exactly as it appears on license)

2. Assignee's Name: _____ Last _____ First _____ Middle

3. License Type: _____ License Number: _____ Date of Last Renewal: _____

4. ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE TO THIS APPLICATION.

SECTION 10 Government: (for cities, towns, or counties only)

1. Governmental Entity: _____

2. Person/designee: _____ Last _____ First _____ Middle _____ Contact Phone Number

A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISES FROM WHICH SPIRITUOUS LIQUOR IS SERVED.

SECTION 11 Person to Person Transfer:

Questions to be completed by CURRENT LICENSEE (Bars and Liquor Stores ONLY-Series 06,07, and 09).

1. Current Licensee's Name: _____ Last _____ First _____ Middle Entity: _____ (Indiv., Agent, etc.)
(Exactly as it appears on license)

2. Corporation/L.L.C. Name: _____
(Exactly as it appears on license)

3. Current Business Name: _____
(Exactly as it appears on license)

4. Physical Street Location of Business: Street _____
City, State, Zip _____

5. License Type: _____ License Number: _____

6. If more than one license to be transfered: License Type: _____ License Number: _____

7. Current Mailing Address: (Other than business) Street _____
City, State, Zip _____

8. Have all creditors, lien holders, interest holders, etc. been notified of this transfer? ☐ YES ☐ NO

9. Does the applicant intend to operate the business while this application is pending? ☐ YES ☐ NO If yes, complete Section 5 of this application, attach fee, and current license to this application.

10. I, _____ (print full name), hereby authorize the department to process this application to transfer the privilege of the license to the applicant, provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, _____ (print full name), declare that I am the CURRENT OWNER, AGENT, MEMBER, PARTNER STOCKHOLDER, or LICENSEE of the stated license. I have read the above Section 11 and confirm that all statements are true, correct, and complete.

_____
(Signature of CURRENT LICENSEE)

State of _____ County of _____
The foregoing instrument was acknowledged before me this
_____ Day _____ Month _____ Year

My commission expires on: _____

_____
(Signature of NOTARY PUBLIC)

'12 JAN 27 Liq. Lic. PM 2:17

SECTION 12 Location to Location Transfer: (Bars and Liquor Stores ONLY)

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE

1. Current Business: (Exactly as it appears on license) Name _____ Address _____

2. New Business: (Physical Street Location) Name _____ Address _____

3. License Type: _____ License Number: _____

4. If more than one license to be transferred: License Type: _____ License Number: _____

5. What date do you plan to move? _____ What date do you plan to open? _____

SECTION 13 Questions for all in-state applicants excluding those applying for government, hotel/motel, and restaurant licenses (series 5, 11, and 12):

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizonal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

a) Restaurant license (§ 4-205.02)
b) Hotel/motel license (§ 4-205.01)
c) Government license (§ 4-205.03)
d) Fenced playing area of a golf course (§ 4-207 (B)(5))

'12 JAN 27 Liq. Lic. PM 2:17

1. Distance to nearest school: _____ ft. Name of school _____ Address _____ City, State, Zip

2. Distance to nearest church: _____ ft. Name of church _____ Address _____ City, State, Zip

3. I am the: ☑ Lessee ☐ Sublessee ☐ Owner ☐ Purchaser (of premises)

4. If the premises is leased give lessors: Name MPR Realty Address 1450 East Indian School #104 Phx AZ 85014 City, State, Zip

4a. Monthly rental/lease rate $ 4400.00 What is the remaining length of the lease? 10 yrs. 0 mos.

4b. What is the penalty if the lease is not fulfilled? $ 0 or other _____ (give details - attach additional sheet if necessary)

5. What is the total **business** indebtedness for this license/location excluding the lease? $ 0

Please list lenders you owe money to.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? Restaurant

SECTION 13 - continued

7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?
☐ YES ☑ NO If yes, attach explanation.

8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business? ☐ YES ☑ NO

9. Is the premises currently licensed with a liquor license? ☐ YES ☑ NO If yes, give license number and licensee's name:

License #_____(exactly as it appears on license) Name _____

SECTION 14 Restaurant or hotel/motel license applicants:

1. Is there an existing restaurant or hotel/motel liquor license at the proposed location? ☐ YES ☑ NO
If yes, give the name of licensee, Agent or a company name:

_____ and license #: _____
Last First Middle

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this ☐ hotel/motel ☑ restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have incl[redacted] Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

[redacted]
applicant's signature

As stated in A.R.S § 4-205.02 (B), I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing, specify why the extension is necessary, and the new inspection date you are requesting. To schedule your site inspec[redacted]w.azliquor.gov and click on the "Information" tab.

[redacted]
applicants initials

SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)

1. Check ALL boxes that apply to your business:

☑ Entrances/Exits ☑ Liquor storage areas Patio: ☑ Contiguous
☐ Service windows ☐ Drive-in windows ☐ Non Contiguous

2. Is your licensed premises currently closed due to construction, renovation, or redesign? ☑ YES ☐ NO
If yes, what is your estimated opening date? _____
month/day/year

3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.

4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spiritous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).

5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01(B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, wind[redacted] service windows,or increase or decrease to the square footage after submitting this initial drawing.

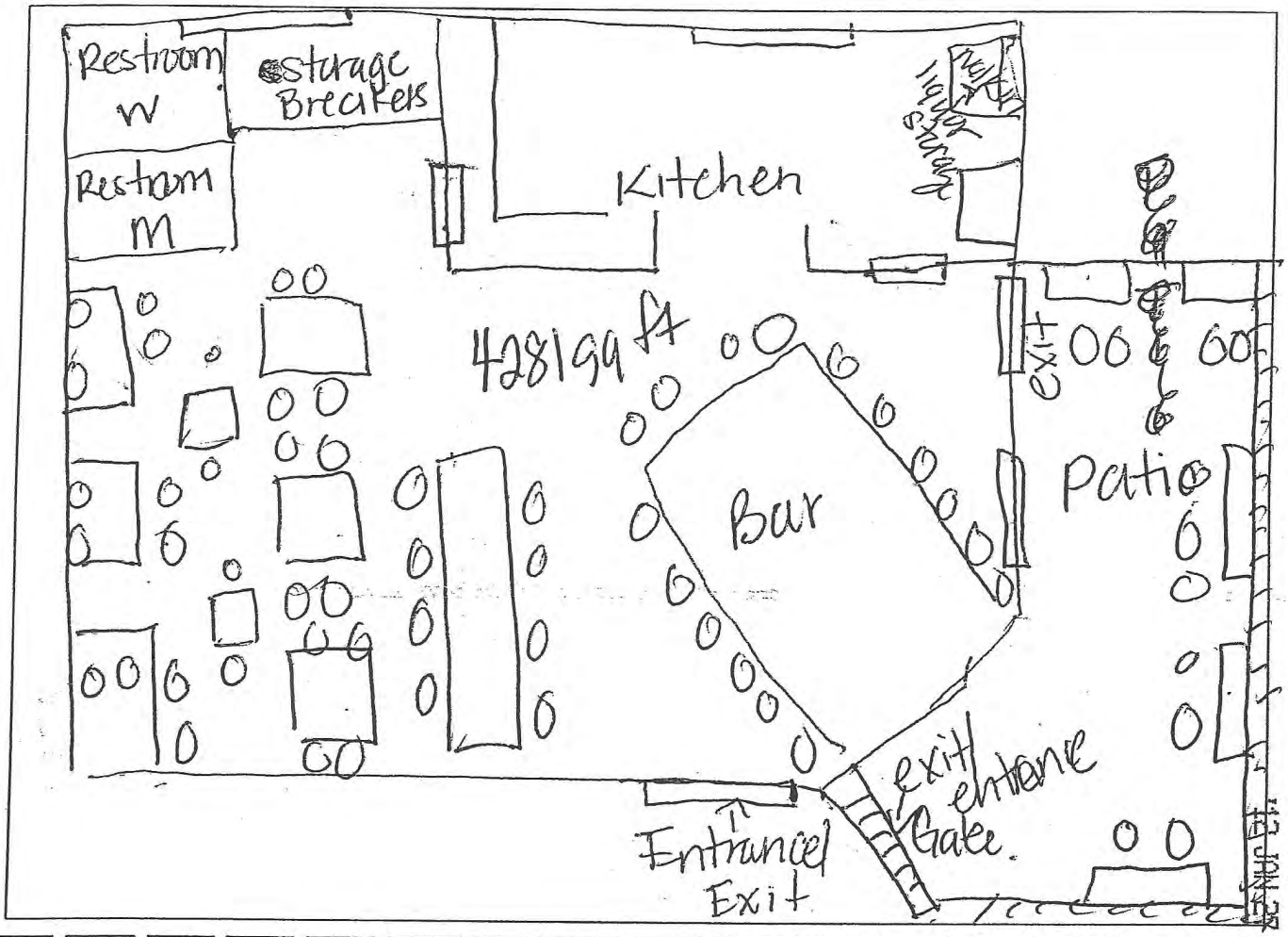
[redacted]
applicants initials

'12 JAN 26 Liq. Lic. PM 2:17

SECTION 15 Diagram of Premises

4. In this diagram please show only the area where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, bar stools, hi-top tables, dining tables, dining chairs, the kitchen, dance floor, stage, and game room. Do not include parking lots, living quarters, etc. When completing diagram, North is up ↑.

If a legible copy of a rendering or drawing of your diagram of premises is attached to this application, please write the words "diagram attached" in box provided below.



SECTION 16 Signature Block

I, Linda Quach, hereby declare that I am the OWNER/AGENT filing this application as stated in Section 4, Question 1. I have read this application and verify all statements to be true, correct and complete.

(print full name of applicant)

X [redacted]

(signature of applicant listed in Section 4, Question 1)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this 9th of January 2017

Day Month Year

[redacted]

signature of NOTARY PUBLIC

DARLENE M. RINEHART
Notary Public - Arizona
Maricopa County
Expires Oct. 15, 2014

My commission expires on : 10/15/2014

Day Month Year

17 JAN 25 Liq. Lic. PM 2:10

Print Form

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

RESTAURANT OPERATION PLAN

LICENSE # 12079012

1. List by Make, Model and Capacity of your :

Grill	~~Wolfen~~ #4925 gas grill imperial.
Oven	~~True~~ Imperial 6 burner(2)
Freezer	6x8 walkin freezer
Refrigerator	Turbo air(4) Bar/kitchen walkin 10x10
Sink	3 compartment, handsink(3)
Dish Washing Facilities	Prep sink
Food Preparation Counter (Dimensions)	6ft x 23ft.
Other	Ice machine 800lb(2) impenal fryer 50g.

2. Print the name ofyour restaurant: ~~Big Buddha~~ Lantern

3. Attach a copy of your menu (Breakfast, Lunch and Dinner including prices).

4. List the seating capacity for:

a. Restaurant area of your premises [98]

b. Bar area of your premises [+ 18]

c. Total area of your premises [116] [redacted]

5. What type of dinnerware and utensils are utilized within your restaurant?
☑ Reusable ☐ Disposable

6. Does [redacted] distinct and separate from the restaurant seating? (If yes, what percentage of the public floor space does this area cover). ☒ Yes 18 % ☐ No

7. What percentage of your public premises is used primarily for restaurant dining? (Does not include kitchen, bar,cocktail tables or game area.) 82 %

*Disabled individuals requiring special accommodations, please call (602) 542-9027

Lic0114 05/2009

'12 JAN 27 Liqr. Lic. PM 2:17

[redacted]

8. Does your restaurant contain any games or television? ☐ Yes ☒ No
If yes, specify what types and how many of each type (Televisions, Pool tables, Video Games, Darts, etc).

9. Do you have live entertainment or dancing? ☐ Yes ☒ No
(If yes, what type and how often?)

10. Use space below or attach a list of employee positions and their duties to fully staff your business.

Front Kitchen
Back Kitchen Prep
Back Kitchen Clean.
Front manager / Hostess
Servers
Bartenders
Bussers
manager

'12 JAN 27 Liq. Lic. AM 2:17

I, Linda Quach, hereby declare that I am the APPLICANT filing this application. I have
(Print full name)
read this application and the contents and all statements true, correct and complete.

X [redacted]
(Signature of APPLICANT)

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this
9th day of January, 2012.
Day of Month Month Year

DARLENE M. RINEHART
Notary Public - Arizona
Maricopa County
Expires Oct. 15, 2014

My commission expires on:: 10/15/2014

[redacted]
(Signature of NOTARY PUBLIC)

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

RECORDS REQUIRED FOR AUDIT

SERIES 11 (HOTEL/MOTELW/RESTAURANT AND SERIES 12 (RESTAURANT)

MAKE A COPY OF THIS DOCUMENT AND KEEP IT WITH YOUR DLLC RECORDS

In the event of an audit, you will be asked to provide to the Department any documents necessary to determine compliance with A.R.S. §4-205.02(G). Such documents requested may include however, are not limited to:

1. All invoices and receipts for the purchase of food and spirituous liquor for the licensed premises.
2. A list of ***all*** food and liquor vendors
3. The restaurant menu used during the audit period
4. A price list for alcoholic beverages during the audit period
5. Mark-up figures on food and alcoholic products during the audit period
6. A recent, ***accurate*** inventory of food and liquor (taken within two weeks of the Audit Interview Appointment)
7. Monthly Inventory Figures - beginning and ending figures for food and liquor
8. Chart of accounts (copy)
9. Financial Statements-Income Statements-Balance Sheets
10. General Ledger
    A. Sales Journals/Monthly Sales Schedules
       1) Daily sales Reports (to include the name of each waitress/waiter, bartender, etc. with sales for that day)
       2) Daily Cash Register Tapes - Journal Tapes and Z-tapes
       3) Dated Guest Checks
       4) Coupons/Specials/Discounts
       5) Any other evidence to support income from food and liquor sales
    B. Cash Receipts/Disbursement Journals
       1) Daily Bank Deposit Slips
       2) Bank Statements and canceled checks
11. Tax Records
    A. Transaction Privilege Sales, Use and Severance Tax Return (copies)
    B. Income Tax Return - city, state and federal (copies)
    C. Any supporting books, records, schedules or documents used in preparation of tax returns
12. Payroll Records
    A. Copies of all reports required by the State and Federal Government

'12 JAN 27 Liq. Lic. PM 2:17

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

802-773
P1057251 JB

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate Information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with BLACK INK.
An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT DLLC. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY DLLC. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Effective 10/01/07 there is a $24.00 processing fee for each fingerprint card submitted.

The fees allowed by A.R.S. § 44-6852 will be charged for all dishonored checks.

Liquor License # 12079012
(If the location is currently licensed)

1. Check appropriate box →

☑ Controlling Person ☑ Agent (Complete Questions 1-19) Controlling Person or Agent must complete #21 for a Manager	☐ Manager (Only) (Complete All Questions except # 14, 14a & 21) Controlling Person or Agent must complete # 21

2. Name: Quach (Last) Linda (First) Middle [redacted] Date of Birth [redacted] (NOT a Public Record)

3. Social Security Number: [redacted] (NOT a public record) Drivers License #: [redacted] (NOT a public record) State: [redacted]

4. Place of Birth: [redacted] (City, State, Country) Height: [redacted] Weight: [redacted] Eyes: [redacted] Hair: [redacted]

5. Marital Status ☐ Single ☑ Married ☐ Divorced ☐ Widowed Daytime Contact Phone: [redacted]

6. Name of Current or Most Recent Spouse: Chu (Last) Van (First) Vi (Middle) (Maiden) Date of Bi[redacted] (NOT a public record)
(List all for last 5 years - Use additional sheet if necessary)

7. You are a bona fide resident of what state? Arizona If Arizona, date of residency: 1989

8 Telephone number to contact you during business hours for any questions regarding this document: [redacted]

9. If you have been an Arizona resident for less than three (3) months, submit a copy of your Arizona driver's license or voter registration card.

10. Name of Licensed Premises: ~~Big Buddha~~ Lantern Premises Phone: ~~602 481 3826~~

11. Physical Location of [redacted] 738 N. 75th Ave, B-7 Peoria Maricopa 85345
Street Address (Do not use PO Box #) City County Zip

12. List your employment or type of business during the past five (5) years. If unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip)
10/2005	CURRENT	Restaurant	[redacted]
01/06	10/2025	Restaurant	[redacted]

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
02/2025	CURRENT	Own	[redacted]	[redacted]		

Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

If you checked the Manager box on the front of this form skip to # 15

14. As a Controlling Person or Agent, will you be physically present and operating the licensed premises? ☑ YES ☐ NO
If you answered YES, how many hrs/day? 10, and **answer #14a below**. If NO, skip to #15.

14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must provide proof) ☑ YES ☐ NO
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.

15. Have you been detained, cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years (include only traffic violations that were alcohol and/or drug related)? ☐ YES ☑ NO

16. Are there ANY administrative law citations, compliance actions or consents, criminal arrest, indictments or summonses PENDING against you or ANY entity in which you are now involved? ☐ YES ☑ NO

17. Have you or any entity in which you have held ownership, been an officer, member, director or manager EVER had a business, professional or liquor application or license rejected, denied, revoked, suspended or fined in this or any other state? ☐ YES ☑ NO

18. Has anyone EVER filed suit or obtained a judgment against you, the subject of which involved fraud or misrepresentation? ☐ YES ☑ NO

19. [redacted] NOW or have you EVER held ownership, been a controlling person, been an officer, member, director or manager on any other liquor license in this or any other state? ☑ YES ☐ NO

[redacted] If any answer to Questions 15 through 19 is "YES" YOU MUST attach a signed st[redacted]
Give complete details including dates, agencies involved, and dispositions.
SUBSTANTIVE CHANGES TO THIS APPLICATION WILL NOT BE ACCEPTED

[redacted] I, Linda Quach, hereby declare that I am the APPLICANT/REPRESENTATIVE
(Print full name of Applicant)
filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

X [redacted]
(Signature of Applicant)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this 9th day of January, 2012
Month Year

[redacted]
(Signature of NOTARY PUBLIC)

DARLENE M. RINEHART
Notary Public - Arizona
Maricopa County
Expires Oct. 17, 2014

My commission expires on: [redacted]
Day Month Year

'12 JAN 27 Liq. Lic. AM 2:22

COMPLETE THIS SECTION ONLY IF YOU ARE A CONTROLLING PERSON OR AGENT APPROVING A MANAGER'S APPLICATION

21. The applicant hereby authorizes the person named on this questionnaire to act as manager for the named liquor license. The manager named must be at least 21 years of age.

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, _____
Month Year

X _____
[redacted] Agent (circle one)

_____
(Signature of NOTARY PUBLIC)

_____
Print Name

My commission expires on: _____
Day Month Year

I am a controlling agent on liquor license Sens (Sutra 705 LLC).

I am a mgr/mem & ~~agent~~ with 10% stock

License 12077561 Sens

[redacted]

Linda Quach

01/27/12

Linda Quach

'12 JAN 27 LIQ. LIC. PM 2:22

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL
800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

802-773
P1032920 JB

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate Information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with BLACK INK. An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT DLLC. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY DLLC. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Effective 10/01/07 there is a $24.00 processing fee for each fingerprint card submitted.

The fees allowed by A.R.S. § 44-6852 will be charged for all dishonored checks.

Liquor License # 12079012
(If the location is currently licensed)

1. Check appropriate box → ☒ Controlling Person ☐ Agent (Complete Questions 1-19) Controlling Person or Agent must complete #21 for a Manager | ☐ Manager (Only) (Complete All Questions except # 14, 14a & 21) Controlling Person or Agent must complete # 21

2. Name: Chu (Last) Van (First) Vi (Middle) Date of Birth [redacted] (NOT a Public Record)

3. Social Security Number [redacted] (NOT a public record) Drivers License [redacted] (NOT a public record) State: [redacted]

4. Place of Birth: [redacted] (City State Country (not county)) Height: [redacted] Weight [redacted] Eyes: [redacted]

5. Marital Status ☐ Single ☒ Married ☐ Divorced ☐ Widowed Daytime Contact Phone [redacted]

6. Name of Current or Most Recent Spouse: Quach (Last) Linda (First) (Middle) (Maiden) Date of Birth [redacted] (NOT a public record)
(List all for last 5 years - Use additional sheet if necessary)

7. You are a bona fide resident of what state? ~~Az~~ Arizona If Arizona, date of residency [redacted]

8 Telephone number to contact you during business hours for any questions regarding this document: 602 473 8020

9. If you have been an Arizona resident for less than three (3) months, submit a copy of your Arizona driver's license or voter registration card. ✓

10. Name of Licensed Premises: ~~Bag Buddha~~ Lantern Premises Phone: 602 473 8020

11. Physical Location of Licensed Premises Address: [redacted] 8 N. 75th Ave, B-7 (Street Address (Do not use PO Box #)) Peoria (City) Maricopa (County) 85345 (Zip)

12. List your employment or type of business during the past five (5) years. If unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip)
10/08	CURRENT	Restaurant	[redacted]
1/06	10/08	Restaurant	[redacted]

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
09/05	CURRENT	Own	[redacted]	[redacted]		
			[redacted]	[redacted]		
			[redacted]	[redacted]		

 Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

If you checked the Manager box on the front of this form skip to # 15

14. As a Controlling Person or Agent, will you be physically present and operating the licensed premises? ☑ YES ☐ NO
If you answered YES, how many hrs/day? 8, and answer #14a below. If NO, skip to #15.

14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must provide proof) ☑ YES ☐ NO
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.

15. Have you been detained, cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years (include only traffic violations that were alcohol and/or drug related)? ☐ YES ☑ NO

16. Are there ANY administrative law citations, compliance actions or consents, criminal arrest, indictments or summonses PENDING against you or ANY entity in which you are now involved? ☐ YES ☑ NO

17. Have you or any entity in which you have held ownership, been an officer, member, director or manager EVER had a business, professional or liquor application or license rejected, denied, revoked, suspended or fined in this or any other state? ☐ YES ☑ NO

18. Has anyone EVER filed suit or obtained a judgment against you, the subject of which involved fraud or misrepresentation? ☐ YES ☑ NO

19. Are you NOW or have you EVER held ownership, been a controlling person, been an officer, member, director or manager [redacted] other liquor license in this or any other state? ☑ YES ☐ NO

[redacted] ny answer to [redacted] questions 15 through [redacted] "YES" YOU MUS[redacted] attach a signed [redacted]
Give complete details including dates, agencies involved, and dispositions.
[redacted] SUBSTANTIVE CHANGES TO THIS APPLICATION WILL NOT BE ACCEPTED

20. I, [redacted], hereby declare that I am the APPLICANT/REPRESENTATIVE [redacted] (print full name of Applicant) filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

X [redacted] (Signature of Applicant)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this 24 day of January, 2012 Year

My commission expires on: 12-2-2012 Day Month Year

[redacted] (Signature of NOTARY PUBLIC)

OFFICIAL SEAL
SELENA GONZALES
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires Feb. 12, 2012

'12 JAN 27 Liq. Lic. AM 2

[redacted] COMPLETE THIS SECTION ONLY IF YOU ARE A CONTROLLING PERSON OR AGENT APPROVING A MANAGER'S APPLICATION

21. The applicant hereby authorizes the person named on this questionnaire to act as manager for the named liquor license. The manager named must be at least 21 years of age.

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this 9th day of January 2012 Year

X [redacted] or Agent (circ[redacted]

[redacted] (Signature [redacted] ARY PUBLIC)

Linda Brach [redacted] ne

My commission expires on: 10/15/2014 Day Month Year

Notary Public - Arizona
Maricopa County
Expires Oct. 15, 2014

I am a controlling agent on liquor license Sens (Sutra 705 LLC)

[redacted]

Van Vi Chu

'12 JAN 27 Liq. Lic. PM 2:22

① mgr/men Fate 905 LLC 32.5%
BIZ closed # 12076632

② mgr/men Sutra 705 LLC 55%
Sens # 12077561

③ CML Enterprise INC 100% owr
12075245 BIZ closed.

④ Banh & Chu INC
24% BIZ closed

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 12R

Date Prepared: February 14, 2012 **Council Meeting Date:** March 20, 2012

TO: Carl Swenson, City Manager

FROM: William Mattingly, Public Works – Utilities Director

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Agreement for Solid Waste Disposal and Processing Recyclable Materials between the City of Peoria and Waste Management of Arizona

---

Purpose:
Discussion and possible action to approve an agreement with Waste Management of Arizona (WMA) for Solid Waste Disposal and for Processing Recyclable Materials and approve a Single Source procurement.

Background/Summary:
The City of Peoria's Solid Waste program provides service to 49,000 households. The City of Peoria currently has an agreement with the City of Phoenix for the sale of recycled materials and a contract with WMA for the disposal of trash. On January 3rd, 2012 Council approved an Intergovernmental Agreement (IGA) with the City of Phoenix for processing recyclable material for a term of 36 months with the option to renew one (1) year increments for a total of two (2) renewal years. Additionally, Council approved an IGA with the City of Glendale for solid waste disposal for a term of 30 months with the option to renew three (3) years increments for a total of Six (6) renewal years.

Solid waste disposal options are limited by adjacency to recycled material recovery facilities (MRF) and landfill sites and distances traveled. The City of Phoenix and the City of Glendale operate MRF's and landfills which are reasonably close to the City of Peoria. Additionally, the City of Peoria currently has an agreement with WMA for the disposal of solid waste at the Northwest Regional Landfill and at their Deer Valley Transfer Station, both of which are reasonably close to the City of Peoria. In the interest of efficient routing for solid waste collection, it is beneficial to the City of Peoria to have multiple options for disposal of recycled materials and solid waste.

The only other service provider in the area is further away and has not expressed any interest in providing services under the current City of Peoria business model. Waste Management has built a solid foundation for accepting and handling Peoria's wastes. This exceptional working partnership has resulted in enhanced services which includes accepting special waste, (sewerage sludge from the Butler Water Reclamation Facility) at the Deer Valley Transfer

Station and the Northwest Regional Land Fill. This allows for efficient management of collection routes which results in reduced the travel time, (see attached landfill location map).

Waste Management Agreement

The proposed agreement with WMA includes both Solid Waste Disposal and Processing Recyclable Materials. The City of Peoria and Waste Management of Arizona initially entered into an agreement for Solid Waste Disposal on May 07, 2002 (LCON04002) for an initial term of five (5) years and contained two (2) five (5) year extensions. The first extension was executed on July 01, 2007 and is due to expire on June 30, 2012. The Current agreement does not include processing recyclable materials since WMA did not have a materials recovery facility. WMA has recently opened a state of the art MRF at their Northwest Regional Landfill (NWRLF) and is interested in receiving material from the City of Peoria. Under this proposal the current agreement will be terminated and replaced by this new agreement. Waste Management will accept solid waste and recycled material at their Northwest Regional Landfill and at their Deer Valley Transfer Station.

At the January 3rd, 2012 Council meeting, Staff presented a proposed agreement for solid waste disposal and processing recyclable materials with Waste Management of Arizona. The proposed agreement outlined a term of five (5) years with liquidated damages for early termination. This clause is consistent with the current WMA agreement. Council directed staff to renegotiate with WMA and bring back several alternatives to the initial agreement that contained shorter terms. As a result staff is hereby presenting to Council Three separate options for consideration.

Option A (1-year agreement)

The term of this Agreement shall begin on March 21, 2012, and shall continue for One (1) year thereafter until March 21, 2013. This Agreement may be extended on terms and conditions acceptable to both Waste Management and Peoria for Two (2) additional One (1) year periods, unless terminated under the terms of this agreement.

In the event the City elects to terminate this Agreement without cause during the initial One (1) year term, the City agrees to pay WMA liquidated damages. After the initial term, either party may terminate the Agreement without cause after giving one hundred eighty (180) days prior notice. This would not be subject to liquidated damages.

For this option, the tipping fees (per ton) are summarized as follows:

Solid Waste

Deer Valley Transfer Station:	$25.25 +$1.22 (Fuel Surcharge)
Northwest Regional Landfill:	$21.50

Sewerage Sludge

Deer Valley Transfer Station: $25.25 +$1.22 (Fuel Surcharge)
Northwest Regional Landfill: $20.50

The agreement includes a biannual (every two years) adjustment increase based on the Consumer Price Index (Urban Western Users) and an annual fuel charge adjustment. The base rate and fuel charge are expected to increase on July 1, 2013.

Waste Management will accept recycled materials at their Northwest Regional Landfill and at their Deer Valley Transfer Station. The value of recycled materials is based on the "Blended Rate" The Blended Rate is the average sales price per ton for all material sorted and sold at the MRF during a month. However, in no event shall the Blended Rate be less than $110 for the purpose of calculating the Recycling Rebate. Waste Management's recycling payments to Peoria will be based on the following chart:

Blended Rate	Recycling Rebate percentage
$120 or less	14%
$120.01 to $130	18.5%
$130.01 to $150	23.5%
$150.01 to $180	27.5%
$180.01 and up	29.5%

Waste Management will pay Peoria an additional $10.00 per ton for recycled materials which are delivered directly to the Northwest Regional Landfill, as opposed to Deer Valley Transfer Station.

Option B (2-year agreement)
The term of this Agreement shall begin on March 21, 2012, and shall continue for Two (2) years thereafter until March 21, 2014. This Agreement may be extended on terms and conditions acceptable to both Waste Management and Peoria for Four (4) additional Two (2) year periods, unless terminated under the terms of this agreement.

In the event the City elects to terminate this Agreement without cause during the initial Two (2) year term, the City agrees to pay WMA liquidated damages. After the initial term, either party may terminate the Agreement without cause after giving one hundred eighty (180) days prior notice. This would not be subject to liquidated damages.

For this option, the tipping fees (per ton) are summarized as follows:

Solid Waste
Deer Valley Transfer Station: $24.00 +$1.22 (Fuel Surcharge)
Northwest Regional Landfill: $20.00

Sewerage Sludge

Deer Valley Transfer Station: $24.00 +$1.22 (Fuel Surcharge)

Northwest Regional Landfill: $19.00

The agreement includes a biannual (every two years) adjustment increase based on the Consumer Price Index (Urban Western Users) and an annual fuel charge adjustment. The base rate and fuel charge are expected to increase on July 1, 2013.

Waste Management will accept recycled materials at their Northwest Regional Landfill and at their Deer Valley Transfer Station. The value of recycled materials is based on the "Blended Rate" The Blended Rate is the average sales price per ton for all material sorted and sold at the MRF during a month. However, in no event shall the Blended Rate be less than $110 for the purpose of calculating the Recycling Rebate. Waste Management's recycling payments to Peoria will be based on the following chart:

Blended Rate	Recycling Rebate percentage
$120 or less	14%
$120.01 to $130	18.5%
$130.01 to $150	23.5%
$150.01 to $180	27.5%
$180.01 and up	29.5%

Waste Management will pay Peoria an additional $10.00 per ton for recycled materials which are delivered directly to the Northwest Regional Landfill, as opposed to Deer Valley Transfer Station.

Option C (5-year agreement)

The term of this Agreement shall begin on March 21, 2012, and shall continue for Five (5) years thereafter until March 21, 2017. This Agreement may be extended on terms and conditions acceptable to both Waste Management and Peoria for One (1) additional five (5) year period, unless terminated under the terms of this agreement.

In the event the City elects to terminate this Agreement without cause during the first three (3) years of the initial Five (5) term, the City agrees to pay WMA liquidated damages. After three years, either party may terminate the Agreement without cause after giving one hundred eighty (180) days prior notice. This would not be subject to liquidated damages.

For this option, the tipping fees (per ton) are summarized as follows:

Solid Waste

Deer Valley Transfer Station: $23.06 +$1.22 (Fuel Surcharge)
Northwest Regional Landfill: $18.39
Sewerage Sludge
Deer Valley Transfer Station: $23.06 +$1.22 (Fuel Surcharge)
Northwest Regional Landfill: $17.39

The agreement includes a biannual (every two years) adjustment increase based on the Consumer Price Index (Urban Western Users) and an annual fuel charge adjustment. The base rate and fuel charge are expected to increase on July 1, 2013.

Waste Management will accept recycled materials at their Northwest Regional Landfill and at their Deer Valley Transfer Station. The value of recycled materials is based on the "Blended Rate" The Blended Rate is the average sales price per ton for all material sorted and sold at the MRF during a month. However, in no event shall the Blended Rate be less than $110 for the purpose of calculating the Recycling Rebate. Waste Management's recycling payments to Peoria will be based on the following chart:

Blended Rate	Recycling Rebate percentage
$120 or less	14%
$120.01 to $130	18.5%
$130.01 to $150	23.5%
$150.01 to $180	27.5%
$180.01 and up	29.5%

Waste Management will pay Peoria an additional $10.00 per ton for recycled materials which are delivered directly to the Northwest Regional Landfill, as opposed to Deer Valley Transfer Station.

Previous Actions:
The City of Peoria and Waste Management of Arizona entered into previous agreement for Solid Waste Disposal on May 07, 2002 (LCON04002)

Options:

A: Council could act to approve the proposed agreement between the City of Peoria and the Waste Management for Solid Waste Disposal and for Processing Recyclable Materials under the terms of Option A (1-year) agreement.

B: Council could act to approve the proposed agreement between the City of Peoria and the Waste Management for Solid Waste Disposal and for Processing Recyclable Materials under the terms of Option B (2-year) agreement.

C: Council could act to approve the proposed agreement between the City of Peoria and the Waste Management for Solid Waste Disposal and for Processing Recyclable Materials under the terms of Option C (5-year) agreement.

D: Council could decline to approve the proposed agreement between the City of Peoria and Waste Management for Solid Waste Disposal and for Processing Recyclable Materials and direct staff to extend the terms of the existing agreement for Solid Waste Disposal only under the existing terms.

Staff's Recommendation:
Staff recommends that the Mayor and City Council approve an agreement between the City of Peoria and Waste Management of Arizona under the terms of Option C for Solid Waste Disposal and for Processing Recyclable Materials as this is the most financially beneficial option for the City's Solid Waste Fund.

Fiscal Analysis:
The proposed Agreement between the City of Peoria and Waste Management of Arizona allows the City of Peoria to continue to use the Northwest Regional Landfill and the Deer Valley Transfer Station. It also provides an additional location to for processing recyclable materials. This agreement will allow Peoria to adapt Solid Waste routes to dispose of materials at the most convenient and cost effective location. This will enable the City of Peoria to continue to efficiently deliver Solid Waste Services. The proposed landfill tipping fees listed in Option C are the same as the previous agreement with Waste Management of Arizona.

Narrative:
The Solid Waste Division continues to evaluate operational efficiencies and has been successful at reducing costs. A significant factor in reducing costs is the diversion of recyclable materials to a materials recovery facility. The City receives revenue for clean, recyclable material and avoids the cost of sending the material to a landfill. The Residential Curbside Recycling program has consistently diverted an average of 25% of recyclable material from the waste stream since its inception. This success is attributed to the citizens of Peoria who participate in this program. This new agreement with Waste Management provides another option for processing recyclable materials. The current market for recycled materials is strong and under this new agreement Peoria will share in the increased revenues from these commodities. Additionally, with the recently Council approved IGA's with the City of Glendale and with the City of Phoenix which compliment this agreement, City of Peoria Solid Waste Division can exercise maximum operational flexibility. This agreement in conjunction with the two IGA's allow Peoria to adapt Solid Waste routes to dispose of materials at the most convenient and cost effective location.

Exhibit(s) :
Exhibit 1: Solid Waste Disposal Agreement Option A (1-year)
Exhibit 2: Solid Waste Disposal Agreement Option B (1-year)
Exhibit 3: Solid Waste Disposal Agreement Option C (5-year)
Exhibit 4: Single Source Procurement form
Exhibit 5: Landfill Tipping Fee and Recycling Revenue Comparison and Summary
Exhibit 6: Map showing Landfill locations

Contact Name and Number:
William Mattingly, Public Works – Utilities Director, 623-773-5151

SOLID WASTE DISPOSAL AGREEMENT
OPTION A (1-Year)

This SOLID WASTE DISPOSAL AGREEMENT ("**Agreement**") is made and entered into as of the day set herein, by and between Waste Management of Arizona, Inc. ("**WMA**" or "Contractor") and the City of Peoria, an Arizona municipal corporation ("**City**"). WMA and City may be referred to herein collectively as the "Parties" and individually as a "Party" WMA and City.

RECITALS

A. WMA owns and operates environmentally-sound and permitted solid waste disposal sites located in Maricopa County, State of Arizona, such as the Northwest Regional Landfill ("**Northwest**") and Deer Valley Transfer Station ("**Deer Valley**") (collectively, the "**Disposal Sites**").

B. City is a municipality, which provides for the collection and transportation of municipal solid waste of its residents and commercial businesses, and City desires environmentally sound solid waste disposal sites for the disposal of such solid waste materials.

C. WMA and City entered into a Previous Solid Waste Disposal Agreement dated July 1, 2002, (LCON # 04002). WMA and the City wish to terminate the Previous Agreement and any subsequent amendments ("Previous Agreement").

D. The Previous Agreement is to be terminated as of the Effective Date of this Agreement and any provisions in the Previous Agreement regarding termination, notice and/or penalties/damages, if any, are waived by the Parties.

E. The termination of the Previous Agreement on the agreed Effective Date shall not affect any of the rights or obligations of either Party to the Previous Agreement accruing prior to the Effective Date.

F. The Parties acknowledgment and agreement to terminate the Previous Agreement is evidenced by the Parties signature below.

G. City and WMA desire to terminate the Previous Agreement and enter into this Agreement to provide for the disposal of City Acceptable Waste and recycling of City Recyclables.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the Parties, intending to be legally bound, hereby agree as follows:

1. **DEFINITIONS**. As used in this Agreement, the following terms shall have the following meanings:

1.1 "**Acceptable Waste**" shall mean any and all waste that is Solid Waste, including Unacceptable Material, but not Excluded Waste, Recyclables, Sewage Sludge or Special Waste.

1.2 "**Agreement**" shall mean this Solid Waste Disposal Agreement between City and WMA, as it may be amended or modified in writing from time to time.

1.3 "**Base Rate**" shall mean the initial per ton disposal fee to be paid by City to WMA as compensation for disposal of Acceptable Waste, as set forth in and adjusted in accordance with Section 3 of this Agreement.

1.4 "**City**" shall mean the City of Peoria, an Arizona municipal corporation.

1.5 "**City Acceptable Waste**" shall mean Acceptable Waste received at a Disposal Site from the City pursuant to this Agreement.

1.6 "**City Recyclables**" shall mean Recyclables received at a Disposal Site from the City pursuant to this Agreement.

1.7 **"Designated Materials"** shall mean (i) at least 90% of Acceptable Waste and at least 6,000 tons per year of Recyclables collected by the City from single family residential premises located within the City, and (ii) at City's discretion, Sewage Sludge generated by City owned and/or operated waste water treatment facilities

1.8 "**Disposal Sites**" shall mean, collectively, those certain permitted Solid Waste Disposal Sites owned and operated by WMA located in Maricopa County, State of Arizona, and known as Northwest Regional Landfill and Deer Valley Transfer Station.

1.9 "**Effective Date**" The term of any resultant contract shall commence One (1) day following the date of award.

1.10 "**Equipment**" shall mean any and all containers, tractors, trailers, motor vehicles, cranes, top pickers and other equipment utilized by City and/or WMA for the collection, transportation, handling, processing and disposal of Acceptable Waste and Recyclables pursuant to this Agreement.

1.11 "**Excluded Waste**" shall mean waste that: (a) is prohibited from receipt at the applicable Disposal Site by state, federal or local law, regulation, rule, code, ordinance, order, license, permit or permit condition; (b) is or contains Hazardous Waste as defined below; (c) WMA reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions applicable to the Disposal Site; or (d) WMA reasonably believes would present a significant risk to human health or the environment, or otherwise create or expose WMA or City to potential liability.

1.12 "**Hazardous Waste**" shall mean waste that is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" or "dangerous waste," pursuant to any state or federal law and waste containing any substance or material defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste," pollutants or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to federal, state or local laws, but shall not include any Special Waste as defined below.

1.13 "**Recyclable**" or "**Recyclables**" means a material or group of materials that can be processed into a form suitable for reuse through reprocessing or remanufacture. However, Recyclables shall not be classified as such if commingled with materials that contain twenty five percent (25%) or more of non-recyclable. The initial list of Recyclables is identified as Recyclables in Exhibit A. WMA may add materials to the list of Recyclables at its discretion.

1.14 "**Previous Agreement**" means the WMA and City's Solid Waste Disposal Agreement entered into July 1, 2002, (LCON # 04002) and any amendments.

1.15 "**Sewage Sludge**" means solid, semisolid or liquid residue that is generated during the treatment of domestic sewage in a treatment works. Sewage Sludge includes domestic septage, scum or solids that are removed in primary, secondary or advanced wastewater treatment processes, and any material derived from sewage sludge. It does not include ash that is generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings that are generated during preliminary treatment of domestic sewage in a treatment works.

1.16 "**Solid Waste**" shall mean any and all putrescible and non-putrescible solid and semi-solid waste, including garbage, refuse or rubbish resulting from residential, industrial, commercial, community and municipal activities, including, but not limited to, demolition and construction wastes, food and beverage containers, paper, rubbish, ashes, vehicle parts, discarded home appliances, yardwaste (including grass clippings), vegetable wastes and Sewage Sludge.

1.17 "**Special Waste**" shall mean Solid Waste that is bulky or may require special handling at the Disposal Site, including, without limitation, tires, white goods, appliances, and batteries.

1.18 "**Unacceptable Material**" shall mean that portion of the material included in a delivery of source-separated or commingled Recyclables that is not a Recyclable up to 25%. A partial listing of Unacceptable Material is set forth in Exhibit A.

1.19 "**Uncontrollable Circumstances**" shall mean Acts of God including landslides, lightning, unforeseeable storms, floods not in floodplain, unforeseeable freezing, and earthquakes; forest fires; civil disturbances; strikes; lockouts or other industrial disturbances; acts of the public enemy other than WMA employees; wars; pandemic outbreaks; blockades; public

riots; unforeseeable breakage; explosions; negligent accident to machinery, pipelines or materials; power failure; governmental restraint; damage to or destruction of the Disposal Site as a result of events such as those described herein not caused by acts of WMA.

2. **DELIVERY OF ACCEPTABLE WASTE, RECYCLABLES AND SEWAGE SLUDGE.** Beginning on the Effective Date, and throughout the term of this Agreement, City shall cause to be delivered to the Disposal Sites, and WMA shall accept for disposal or recycling, the "Designated Materials". Nothing herein shall prevent any owner, occupant or tenant of residential premises within the area of City from personally handling, hauling, or transporting Acceptable Waste or Recyclables generated by or from his/her own residence for the purpose of disposing of the same at any authorized disposal area or transfer station. If the City contracts out the collection of Acceptable Waste or Recyclables from single family residential premises (e.g., exclusive or non-exclusive collection franchise), a minimum of 90% of such Acceptable Waste and 6,000 tons per year of such Recyclables shall be delivered to and accepted at a Disposal Site. The rates charged to the City hereunder shall also apply to the City's contract collector(s).

WMA will notify the City if the list of Recyclables set forth in Exhibit A can be expanded to include additional types of material. Furthermore, if WMA becomes aware of ways in which the City could improve its Solid Waste diversion, WMA will offer consulting assistance, at no charge to the City~~,~~ and in implementing such improvements.

3. **WMA COMPENSATION**.

3.1 Base Rates. WMA shall charge City, and City shall pay to WMA for disposal services, the following initial disposal rates:

a. Acceptable Waste:
   i. Deer Valley Transfer Station: $25.25 per ton
   ii. Northwest Regional Landfill: $21.50 per ton

b. Special Waste:
   i. Northwest Regional Landfill: The lower of the posted gate rate (between Deer Valley Transfer Station and Northwest Regional Landfill) for such waste as of the date of disposal.

c. Sewage Sludge:
   i. Deer Valley Transfer Station: The Acceptable Waste Base Rate
   ii. Northwest Regional Landfill: The Acceptable Waste Base Rate minus $1.00/ton

d. Current Fuel Surcharge $1.22 per ton

The Base Rates includes all federal, state and local taxes, fees and assessments levied on or applicable to the disposal of solid waste as of the Effective Date. In charging the Base Rate hereunder, WMA shall determine the tonnage of Acceptable Waste by weighing the City's vehicles at the Disposal Site.

3.2 Fuel Surcharge and CPI Adjustments. On or before each November 30 during the term of this Agreement, WMA will provide written notification to the City of any annual Fuel Surcharge adjustment and/or biannual CPI adjustment that will become effective the following July 1 (the "**Adjustment Date**"). Failure of WMA to provide timely notice as provided for in this section shall not relieve the City of any of its obligations under the Agreement, but shall act to only delay such obligations until notice is given.

3.2.1 Fuel Surcharge. In addition to the Base Rate, as part of the compensation payable by the City to WMA for disposal services at Deer Valley Transfer Station, City shall pay WMA a Fuel Surcharge to account for fluctuations in diesel fuel prices. The fuel surcharge shall not apply to disposal services provided to the City at Northwest Regional Landfill.

Calculation of the initial Fuel Surcharge is based on a base Fuel Price of $1.29. On each July 1 during this Agreement, the Fuel Surcharge will be adjusted based on the immediately preceding twelve-month period ending June 30. The amount of the adjustment shall be calculated by:

(a) Subtracting the base Fuel Price ($1.29) from the Average Fuel Price (as defined below) for the preceding twelve-month period ending June 30; and

(b) Multiplying the result by a fuel factor of 0.81 to produce the new Fuel Surcharge.

As used herein, "Average Fuel Price" means the average monthly diesel fuel price, as published by the U.S. Department of Energy: http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp. (See U.S. No 2 Diesel Retail Prices by All Sellers (Cents per Gallon) at the historical data worksheet titled, "Data 2-M Diesel Prices – All Types.")

For example, before November 30, 2010, WMA would have subtracted the base Fuel Price ($1.29) from the Average Fuel Price for the twelve months ending June 30, 2011 (assume $2.80), and multiplied the difference ($1.51) by the fuel factor (0.81) to determine the Fuel Surcharge (equal to $1.22 /ton) that would have been effective July 1, 2011.

In the event the Average Fuel Price for the applicable preceding twelve-month period ending June 30th is less than the base Fuel Price, the Fuel Surcharge will be zero ($0.00) for the applicable following year period.

3.2.2 CPI Adjustment. Bi-annually (on every other Adjustment Date), commencing with the July 1, 2012 Adjustment Date, the then-current Base Rates, as adjusted under this Section 3, shall be automatically adjusted by the average percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) West Region, 1982-84=100, published by the United States Department of Labor, Bureau of Labor Statistics ("**BLS**"). Both parties will agree to refer to the BLS Internet Site (http://stats.bls.gov/cpi/) or other agreed upon BLS source to calculate the CPI-adjusted Base Rate hereunder as follows: find the average West Region CPI-U HALF 1 published for the two years immediately preceding the Adjustment Date (the "first period"), and divide by the average of the West Region CPI-U HALF 1 published for the two-years prior to the "first period." The resulting quotient would then be multiplied by the existing

Base Rates to calculate the new Base Rates for the next two-year period. This method of calculation will then be used for review of rate adjustment for each future biennial review. If there is no positive increase in the CPI average, there will be no change to the Base Rates for any following adjustment period until the next biennial review. The rate adjustment under this section 3.2.2 shall go into effect during the first billing cycle for the month of July, following the new Base Rate calculation.

Example:

For example, the modified methodology to determine the New Base Rate effective July 1, 2012, utilizing a fictitious figure of $25.00 for the Base Rate, is as follows:

CPI HALF 1 Average 2008 = 219.016
CPI HALF 1 Average 2009 = 217.786
Average CPI for "first period" = 218.401

CPI HALF 1 Average 2010 = 220.790
CPI HALF 1 Average 2011 = 226.428
Average CPI for this example "prior" period = 223.609

Divide 223.609/218.401 = 1.024 x $25.00 = $25.60 (Fictitious New Base Rate)
.

3.3 Other Rate Adjustments. WMA may increase the Base Rates to posted gate rates in the event City fails to deliver to the Disposal Site all Designated Material. WMA may also increase the Base Rates to reflect WMA's actual increased costs due to changes in federal, state or local laws, statutes, rules, regulations, ordinances or permit conditions occurring after the Effective Date, except when permit conditions change as a result of WMA actions. WMA may also increase the Base Rates for any tax, tariff, fee, assessment or other charge levied or assessed by a governmental authority on the storage, handling, transportation or disposal of solid waste after the Effective Date. WMA may also increase the Base Rate for actual increased costs resulting from Uncontrollable Circumstances as defined in Section 10. All rate adjustments under this Section 3.3 shall be subject to mutual agreement and take effect upon 30 day written notice from WMA. The City, with good cause, may withhold this approval.

3.4 Omitted.

3.5 Payment. On a monthly basis during the term of this Agreement, WMA shall invoice City for City Acceptable Waste delivered to Disposal Facilities during the preceding month. The City shall pay the full amount of each invoice to WMA within thirty (30) days of the date of each invoice unless the City disputes an amount on the invoice. The City will pay any amounts not in dispute within the 30-day time frame. The City shall pay a late fee and service charge on all past due amounts, not in dispute, accruing from the date of receipt of the invoice at a rate of twelve percent (12%) per annum or, if less, the maximum rate allowed by law. On a monthly basis, WMA shall transmit a statement to the City detailing amounts due and paid by the City during the preceding month.

3.6 Residential Drop-Off Rates. Upon presentation of evidence satisfactory to WMA that an individual is a resident of the City of Peoria, such individual will be permitted to dispose of residential waste at the same rate per ton as set forth in Section 3.1, subject to a $7.50 minimum charge per entry for disposal. Residential drop-off rates will be adjusted as per the CPI adjustment in section 3.2.2.

3.7 Omitted.

3.8 Recyclables Rebate. Each month, WMA shall pay the City a percentage of the total tonnage of City Recyclables (including commingled Unacceptable Material) received at the Disposal Sites multiplied by the Blended Rate (the "**Recycling Rebate**"). The "Blended Rate" is the sum of weighted average per ton sales prices of City Recyclables categories (e.g., cardboard, newspaper, etc.) and Unacceptable Material. However, in no event shall the Blended Rate be less than $110 for the purpose of calculating the Recycling Rebate. At least once each month, WMA will perform an audit of City Recyclables and determine the percentage of each City Recyclable category of total City Recyclables and Unacceptable Material. When determining the weighted average per ton sales price of City Recyclables categories, WMA will calculate the average City Recyclables category percentages of the six previous City Recyclables audits and multiply such percentage by the actual price per ton at which the commodity category was sold.

The Recycling Rebate percentage will depend on the Blended Rate, as follows:

Blended Rate	Recycling Rebate percentage
$120 or less	14%
$120.01 to $130	18.5%
$130.01 to $150	23.5%
$150.01 to $180	27.5%
$180.01 and up	29.5%

The Recycling Rebate shall increase by $10.00 per ton for Recyclables delivered to Northwest Regional Landfill, as opposed to Deer Valley Transfer Station.

The following hypothetical illustrates how the Recycling Rebate is calculated:

Commodity Category[1]	Percentage of Total[2]	Price/ton[3]	Weighted Price
Cardboard	20%	$201.00	$40.20/ton
Newspaper	55%	$179.00	$98.45/ton
Mixed Paper	7%	$174.00	$12.18/ton
Aluminum	3%	$1,302.00	$39.06/ton
Unacceptable Material	15%	$0	$0

[1] There are other categories of commodities, but they were excluded for the sake of simplicity.
[2] This is a hypothetical average of six City Recyclables audits, wherein WMA calculates the percentage of each City Recyclable category of the total amount of City Recyclables received.
[3] These are hypothetical prices at which WMA sold City Recyclables.

Total	100%		
Blended Rate			$189.89/ton
Recycling Rebate/ton for Deer Valley		(29.5% of Blended Rate)	$56.02
Recycling Rebate/ton for Northwest		(29.5% + $10.00)	$66.02

4. **EXCLUDED WASTE; UNACCEPTABLE MATERIAL; INSPECTION, REJECTION**. Prior to delivery to the Disposal Site, the City shall inspect all Designated Material and shall remove any and all Excluded Waste. WMA shall have the right, but not the obligation, to inspect, analyze or test any material delivered by the City to a Disposal Facility. WMA shall have the right to reject, refuse or revoke acceptance of any delivered material if, in the opinion of WMA, such material or tender of delivery fails to conform to, or the City fails to comply with, the terms of this Agreement, including the delivery of waste meeting the definition of Acceptable Waste hereunder. However, if a delivery of Recyclables contains between 0% and 40% of Unacceptable Material (but no Excluded Material), WMA shall accept such delivery and endeavor to dispose of the Unacceptable Material as Acceptable Waste. In the event WMA, by notice to the City, rejects or revokes acceptance of waste or Recyclables hereunder, the City shall, at its sole cost, immediately remove or arrange to have the rejected material removed from WMA's control or property. If the rejected material is not removed within 24 hours from receipt of notice, WMA shall have the right and authority to handle and dispose of the rejected or Excluded Waste. The City shall reimburse WMA for any and all costs, damages and fines incurred as a result of or relating to City's tender or delivery of Excluded Waste or other failure to comply or conform to this Agreement, including, without limitation, costs of inspection, testing, analysis, handling and disposal of Excluded Waste. Title to, ownership of and liability for Excluded Waste shall at all times remain with the City.

5. **ADDITIONAL SERVICES**. In the event the City desires WMA to provide services in addition to the services provided for herein, the City and WMA shall negotiate in good faith the terms under which such services will be provided, including the compensation to be paid WMA to perform such additional services. Any such agreement to perform additional services shall be set forth in writing, signed by duly authorized personnel of each of the parties.

6. **COMPLIANCE WITH LAWS**. The City and WMA shall fully comply with all federal, state and local statutes, regulations, permits, approvals and restrictions, any legal entitlement and any other rule, regulation, requirement, guideline, permit, action, determination or order of any governmental body having jurisdiction, that is/are applicable to the collection, handling, transport, processing, storage or disposal of Solid Waste, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, building codes, non-discrimination and the payment of minimum wages.

7. TERM OF AGREEMENT. **The initial term of this Agreement shall be One (1) year, commencing on the Effective Date and ending at midnight on the day that is one (1)**

year later. This Agreement may be renewed for two (2) additional One (1) year period upon the mutual written agreement of the Parties.

8. LIMITED LICENSE TO ENTER. City and its subcontractors shall have a limited license to enter the Disposal Sites for the sole purpose of off-loading Acceptable Waste and Recyclables at an area designated, and in the manner directed, by WMA. The City shall, and shall ensure that its subcontractors, comply with all rules and regulations of the Disposal Site, including those relating to the use and operation of the Disposal Site and conduct of persons on the premises of the Disposal Site, as the same may be amended by WMA from time to time. In the event of an accident at the disposal site, the City of Peoria will have the right to enter the property to take pictures, take a report and have a police officer respond if necessary.

9. TIME OF DELIVERY. The City shall be entitled to deliver Acceptable Waste to Deer Valley Transfer Station Monday through Saturday (excluding holidays) between the hours of 5:00 am and 5:00 pm, and Acceptable Waste and Recyclables Northwest Regional Landfill Monday through Friday (excluding holidays) between the hours of 7:00 am and 4:00 pm. Additional hours will be as authorized by WMA, with the posted off-hours premium being added to the otherwise applicable Disposal Rate. Resident drop-off hours will initially be between the hours of 7:00 am and 5:00 pm Monday through Friday and 7:00 am to 1:00 pm Saturday (excluding holidays) at both Disposal Sites, and the parties will mutually agree in writing to any changes in operational hours. The Disposal Sites will be closed for the holidays of New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. The hours of operation are subject to change upon the delivery of thirty (30) days' written notice to the City, provided the City concurs in writing with such change. The City will not withhold approval without good cause.

10. **UNCONTROLLABLE CIRCUMSTANCES**. Provided that the requirements of this Section are met, neither Party shall be considered in default in the performance of its obligations under this Agreement (not including the obligation to make payments) to the extent that such performance is prevented or impaired by the occurrence of Uncontrollable Circumstances. If, as a result of an event of Uncontrollable Circumstances, either Party is wholly or partially unable to meet its obligations under this Agreement, then it shall give the other Party prompt written notice of such event, describing it in reasonable detail. The obligations under this Agreement of the affected Party shall be suspended, other than for payment of monies due, but only with respect to the particular component of obligations affected by the event and only for the period during which the event of Uncontrollable Circumstances exists; provided, however, that WMA shall have a reasonable time during which to assess the impacts caused by an event of Uncontrollable Circumstances and sole discretion to determine whether it will make repairs and resume all or part of the operations or whether it will terminate all operations at the Disposal Site.

11. **TERMINATION; DEFAULT**. Either Party shall have the right to terminate this Agreement upon giving the other Party written notice if the other Party (i) fails to make any payment required hereunder within ten (10) days after receiving notice of nonpayment from the non-defaulting Party, or (ii) breaches any of its representations and warranties set forth in Sections 13 or 14 below, or (iii) fails to comply with any federal, state or local laws, rules, orders or ordinances, or regulations that pertain to the collection, handling, storage, transportation, processing and/or disposal of the Acceptable Waste or Recyclables, or (iv) defaults in the

performance of any other material obligation of the defaulting Party under this Agreement and fails to cure such default within thirty (30) days after receiving written notice thereof from the non-defaulting Party. In addition, WMA shall have the right to terminate this Agreement upon ninety (90) days' written notice to City if the laws, regulations or orders of any governmental body having jurisdiction over WMA prohibit WMA from operating a Disposal Site as contemplated in this Agreement.

12. **RIGHT TO TERMINATE WITHOUT CAUSE; LIQUIDATED DAMAGES**. Neither party shall have the right to terminate this Agreement except for cause as provided in Section 11. Notwithstanding the foregoing limitation on the right to terminate this Agreement, in the event the City elects to terminate this Agreement without cause during the initial term and the City provides not less than Six months' notice thereof, the City agrees to pay WMA by no later than the termination date, as liquidated damages and not a penalty, an amount equal to the total amount billed to the City with respect to the most recent month prior to the termination date of which complete billings are available, multiplied by the number of remaining months in the initial term Beyond the initial term, either party may terminate this Agreement without cause by giving the other party one hundred eighty (180) days prior notice and such termination is not subject to liquidated damages.

13. **WARRANTIES OF THE CITY**. The City warrants and represents that:

13.1 Waste delivered to Disposal Sites from the City or otherwise by the City or its agents or subcontractors shall conform to the definitions of Acceptable Waste or Recyclables, as set forth in Sections 1.1 and 1.12 of this Agreement, and shall not contain any Excluded Waste. Deliveries identified by the City as Recyclables shall contain no more than 40% Unacceptable Material and not contain any Excluded Waste;

13.2 The City shall establish and maintain a program of operating and monitoring procedures for its Solid Waste collection activities to prevent the transportation or delivery to the Disposal Sites of Excluded Waste and minimize the inclusion of Unacceptable Materials with Recyclables;

13.3 The City possesses the Equipment, plant and employee or subcontractor resources required to meet its obligations required under this Agreement, and the Equipment shall, at all times relevant to the performance of services hereunder, be maintained in a good and safe condition and fit for use;

13.4 The City shall, and shall cause any of its subcontractors to, collect, handle and transport all Solid Waste in a safe and workmanlike manner in full compliance with all applicable federal, state and local laws, ordinances, decisions, orders, rules or regulations; and

13.5 The City has advised its drivers and its transfer station operators of WMA's prohibition on delivery of Excluded Waste, limitations on acceptance of Unacceptable Material, of the definitions and listing of Hazardous Waste under applicable federal and state law and regulations and of the definitions of Acceptable Waste, Recyclables and Unacceptable Materials herein.

14. **WARRANTIES OF WMA**. WMA warrants and represents that:

14.1 It possesses the Equipment, plant and employee resources required to meet its obligations required under this Agreement, and the Equipment shall, at all times relevant to the performance of services hereunder, be maintained in a good and safe condition and fit for use;

14.2 The Disposal Sites have been issued, and WMA will maintain throughout the term of this Agreement, all permits, licenses, certificates or approvals required by valid and applicable laws, ordinances and regulations necessary to allow the Disposal Sites to accept, dispose of and/or recycle Acceptable Waste and Recyclables (Northwest only); and

14.3 It will handle and dispose of the Acceptable Waste and Recyclables in a safe and workmanlike manner in full compliance with all valid and applicable federal, state and local laws, ordinances, orders, rules and regulations.

15. **INSURANCE**. WMA and City each warrants that it shall, and shall ensure that its subcontractors, secure and maintain in full force and effect throughout the term of this Agreement insurance coverage for commercial general liability (bodily injury and property damage), automobile liability and workers' compensation insurance with limits that are required by appropriate regulatory agencies or the following limits, whichever are greater: commercial general liability, $2,000,000 combined single limit per occurrence and aggregate; automobile liability, $2,000,000 combined single limit per occurrence and aggregate; workers' compensation, statutory limit; and pollution legal liability, $5,000,000 per occurrence, $10,000,000 aggregate.

16. INDEMNITY.

16.1 Indemnity. Each Party ("Indemnitor") shall defend, indemnify and hold harmless the other Party and its employees, officers, agents and subcontractors (collectively, "Indemnitees"), from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, judgments and costs and expenses incidental thereto, including reasonable attorneys' fees (collectively, "Damages"), which any or all of the Indemnitees may hereafter suffer, incur, be responsible for or pay out as a result of personal injuries, property damage, or contamination of or adverse effects on the environment, to the extent directly or indirectly caused by, or arising from or in connection with the breach of any representations and warranties of the Indemnitor set

forth above, or any negligent actions or omissions of Indemnitor, its employees, officers, owners, directors, agents or subcontractors, in the performance of this Agreement. Such indemnity shall be limited to exclude Damages to the extent they arise as a result of any negligent actions or omissions of any of the Indemnitees. Notwithstanding the foregoing or anything else in this Agreement to the contrary, City shall be liable and shall defend, indemnify and hold harmless WMA for Damages (including, but not limited to, reasonable investigation and legal expenses) arising from, related to or caused by the presence, handling or disposal of Excluded Waste that is generated, received, handled, processed at, or transported or originating from, City's transfer station or otherwise from City.

16.2 Notice, Defense. In the event of any suit against any Indemnitee under this Section 16, the Indemnitor shall appear and defend such suit provided that the Indemnitor is notified in a timely manner of the suit. The Indemnitee shall have the right to approve counsel chosen by the Indemnitor to litigate such suit which approval shall not be unreasonably withheld. In the event a dispute exists over whether a Party is entitled to indemnification, each Party shall defend itself until the dispute is resolved. Upon resolution of the indemnification dispute, the prevailing Party shall be entitled to indemnification for its defense costs incurred prior to resolution.

16.3 Insurance. The indemnification obligation hereunder shall arise only in excess of any available and collectible insurance proceeds and the party indemnifying the other party shall be liable hereunder to pay only its share of the amount of Damages, if any, that exceeds the total amount that all insurance has paid for the Damages, plus the total amount of all deductible and self-insured expenses paid under all insurance policies.

17. **BINDING EFFECT, ASSIGNMENT**. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns provided that the rights, obligations and duties of each Party as specified in this Agreement may not be transferred, assigned or otherwise vested in any other company, entity, or person without the prior written approval of the other Party which approval shall not be unreasonably withheld. Notwithstanding the foregoing, WMA may assign or transfer its rights and obligations hereunder to a subsidiary of WMA's parent company without seeking or obtaining the approval of the City.

18. **NOTICES**. All notices required under this Agreement shall be personally delivered or mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight carrier, or confirmed facsimile to the Parties' addresses on the signature page hereto, or to such other address as either Party shall specify by written notice so given. Any notice sent by mail in the manner set forth above shall be deemed given and received three (3) business days after the date deposited in the United States mail. Any notice or communication given by personal delivery or sent by overnight carrier or confirmed facsimile in the manner set forth above shall be deemed given upon receipt.

19. **NON-WAIVER**. The failure of either Party to enforce its rights under any provision of this Agreement shall not be construed to be a waiver of such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other breach.

20. WEIGHING OF ACCEPTABLE WASTE AND RECYCLABLES.

20.1 Calibration. WMA shall at all times maintain in proper working order the weighing devices at the facility and shall calibrate and re-calibrate such devices as needed and as required by the Arizona Department of Weights and Measures. Calibration records shall be available for inspection by the City of Peoria.

20.2 Tare Weight. Each vehicle delivering Acceptable Waste or Recyclables shall have a vehicle identification number permanently indicated and conspicuously displayed on the exterior of the vehicle which is readily visible by weigh scale operators. Peoria shall provide a certified tare weight for each such identified vehicle. Incoming Acceptable Waste and Recyclables shall be weighed. Weights shall then be recorded. From time to time, the parties may require revalidation of the tare weight of any vehicle or re-weighing of unloaded trucks. Peoria, at no extra cost, shall have the right to monitor the weighing of all vehicles delivering Acceptable Waste or Recyclables to the site. In the event the scales become temporarily inoperable, both parties shall agree to a weight delivered to the facility by using truck volume and historical data. Those estimates shall serve as official records for the duration of the scale outage.

THE FOLLOWING CITY OF PEORIA STANDARD TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE CONTRACT. IN THE EVENT OF CONFLICT BETWEEN THE AGREEMENT AND THE STANDARD TERMS AND CONDITIONS, THE PROVISIONS OF THE AGREEMENT WILL PREVAIL.

1. **CERTIFICATION:** By signature in the Offer section of the Offer and Contract Award page , the Vendor certifies:

   a. The submission of the offer did not involve collusion or other anti-competitive practices.

   b. The Vendor shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

   c. The Vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

2. **GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event this contract is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible city government customers shall not be prohibited by this paragraph.

3. **APPLICABLE LAW:** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

   This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

   This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the

contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

4. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code as of the date of this agreement.

5. **CONTRACT:** The contract between the City and the Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, and any amendments thereto, and (2) the offer submitted by the Vendor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of the Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.

6. **CONTRACT AMENDMENTS:** This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.

7. **CONTRACT APPLICABILITY:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific Contract. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the City are not applicable to this Solicitation or any resultant contract.

8. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.

9. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

10. **RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.

11. **INTERPRETATION-PAROL EVIDENCE:** This contract represents the entire agreement

of the Parties with respect to its subject matter, and all pervious agreements, whether oral or written, entered into prior to this contract are hereby revoked and superseded by this contract. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this contact. This contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both Parties. Any attempt at oral modification of this contract shall be void and of no effect.

12. **ASSIGNMENT-DELEGATION:** No right or interest in this contract shall be assigned by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City.

13. **SUBCONTRACTS:** No subcontract shall be entered into by the contractor with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the City. The prime contractor shall itemize all sub-contractors which shall be utilized on the project. Any substitution of sub-contractors by the prime contractor shall be approved by the City and any cost savings will be reduced from the prime contractor's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract and if the Subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not Subcontractors are used.

14. **RIGHTS AND REMEDIES:** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.

15. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

16. **FORCE MAJEURE:** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God: acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by

government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

Force majeure shall not include the following occurrences:

a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.

b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

17. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

18. **RIGHT TO AUDIT RECORDS:** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City.

19. **RIGHT TO INSPECT PLANT:** The City may, at reasonable times, inspect the part of the plant or place of business of a Contractor or Subcontractor which is related to the performance of any contract as awarded or to be awarded.

20. **WARRANTIES:** Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Contractor's response, the City is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by

the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

21. **INSPECTION:** All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. The City may elect to do any or all:

    a. Waive the non-conformance.

    b. Stop the work immediately.

    c. Bring material into compliance.

    This shall be accomplished by a written determination for the City.

22. **TITLE AND RISK OF LOSS:** The title and risk of loss of material and/or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

23. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

24. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment of lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the City, shall constitute a breach of the Contract as a whole.

25. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

26. **LIENS:** All materials, service or construction shall be free of all liens, and if the City requests, a formal release of all liens shall be delivered to the City.

27. **LICENSES:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

28. **PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City.

29. **PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL:** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.

30. **COST OF BID/PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

31. **PUBLIC RECORD:** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

32. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the City.
33. **DELIVERY ORDERS:** The City shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the Offer and Contract Award .

34. **FUNDING:** Any contract entered into by the City of Peoria is subject to funding availability. Fiscal years for the City of Peoria are July 1 to June 30. The City Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

35. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or services and correct invoice.

THE FOLLOWING CITY OF PEORIA SPECIAL TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE CONTRACT. IN THE EVENT OF A CONFLICT BETWEEN THE AGREEMENT AND THE SPECIAL TERMS AND CONDITIONS, THE AGREEMENT WILL PREVAIL.

1. **Purpose:** Pursuant to provisions of the City Procurement Code, the City of Peoria, Materials Management Division intends to establish a contract for Solid Waste Disposal Services.

2. **Authority:** This contract is issued under the authority of the City. No alteration of any resultant contract may be made without the express written approval of the City Materials Manager in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

3. **Contract Type:** Fixed Price

4. **Permits and Approvals:** Contractor agrees and undertakes to obtain necessary permits and approvals from all local, state and federal authorities for the project.

5. **Inspection:** All work shall be subject to inspection, surveillance, and test by the City at reasonable times during the performance. The Contractor shall provide and maintain an inspection system which is acceptable to the City.

6. **Investigation of Conditions:** The Contractor warrants and agrees familiarity of the work that is required, is satisfied as to the conditions under which is performed and enters into this contract based upon the Contractor's own investigation.

7. **Compensation:** Compensation for services shall be based upon fees negotiated, including all approved costs and expenses incurred in connection with the project; including but not limited to, telephone and other communications, reproduction of documents, special consultants (as approved by the City) and computer costs.

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

9. **Insurance Cancellation and Expiration Notice:** Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the City.

10. **Independent Contractor:**

a. General

i. The Contractor acknowledges that all services provided under this Agreement are being provided by him as an independent contractor, not as an employee or agent of the City Manager or the City of Peoria.

ii. Both parties agree that this Agreement is nonexclusive and that Contractor is not prohibited from entering into other contracts nor prohibited from practicing his profession elsewhere.

b. Liability

i. The City of Peoria shall not be liable for any acts of Contractor outside the scope of authority granted under this Agreement or as the result of Contractor's acts, errors, misconduct, negligence, omissions and intentional acts.

ii. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

c. Other Benefits

The Contractor is an independent contractor, therefore, the City Manager will not provide the Contractor with health insurance, life insurance, workmen's compensation, sick leave, vacation leave, or any other fringe benefits. Further, Contractor acknowledges that he is exempt from coverage of the Comprehensive Benefit and Retirement Act (COBRA). Any such fringe benefits shall be the sole responsibility of Contractor.

11. **Confidentiality of Records:** The contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that information contained in its records or obtained from the City or from others in carrying out its functions under the

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

12. **Ordering Process:** Upon award of a contract by the City of Peoria, Materials Management Division may procure the specific material and/or service awarded by the issuance of a purchase order to the appropriate contractor. The award of a contract shall be in accordance with the City of Peoria Procurement Code and all transactions and procedures required by the Code for public bidding have been complied with. A purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the department to order and the contractor to delivery the material and/or service.

    Any attempt to represent any material and/or service not specifically awarded as being under contract with the City of Peoria is a violation of the contract and the City of Peoria Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

13. **Billing:** All billing notices to the City shall identify the specific item(s) being billed and the purchase order number. Items are to be identified by the name, model number, and/or serial number most applicable. Any purchase/delivery order issued by the requesting agency shall refer to the contract number resulting from this solicitation.

14. **Licenses:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

15. **Cancellation:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. The City will issue written notice to the contractor for acting or failing to act as in any of the following:

    a. The contractor provides material that does not meet the specifications of the contract;

    b. The contractor fails to adequately perform the services set forth in the specifications of the contract;

    c. The contractor fails to complete the work required or to furnish the materials required within the time stipulated in the contract;

    d. The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.

    Upon receipt of the written notice of concern, the contractor shall have ten (10) days to

provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies:

e. Cancel any contract;

f. Reserve all rights or claims to damage for breach of any covenants of the contract;

g. Perform any test or analysis on materials for compliance with the specifications of the contract. If the results of any test or analysis find a material non-compliant with the specifications, the actual expense of testing shall be borne by the contractor;

h. In case of default, the City reserves the right to purchase materials, or to complete the required work in accordance with the City Procurement Code. The City may recover any actual excess costs from the contractor by:

   i. Deduction from an unpaid balance;

   ii. Collection against the bid and/or performance bond, or;

   iii. Any combination of the above or any other remedies as provided by law.

IN WITNESS WHEREOF, WMA and the City have executed this Agreement as of the Effective Date written above.

Date Awarded: _____

WMA

By: _____

Its: _____

Date: _____

Address for Notice:
Waste Management
1580 E. Elwood
Phoenix, AZ 85040

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Carl Swenson
Its: ____City Manager_____

Date: _____

Address for Notice:
City of Peoria
8401 West Monroe
Peoria, AZ 85345

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

ATTESTED BY:

_____
Wanda Nelson, City Clerk

EXHIBIT A

SINGLE STREAM SPECIFICATIONS

City shall deliver Commingled Recyclables, consisting of recyclable aluminum, cans, plastics, and paper:

Materials Accepted: Aluminum food and beverage containers
Ferrous (Iron) cans
Glass food and beverage containers – brown, clear, or green
PET plastic containers with the symbol #1 – narrow neck containers only
HDPE natural plastic containers with the symbol #2 – narrow neck containers only (milk and water bottles)
HDPE pigmented plastic containers with the symbol #2 – narrow neck containers only (detergent, shampoo, bleach bottles, etc. without caps)
Plastics with symbols #1- #7-narrow and screw top containers
Newsprint
Old corrugated cardboard
Magazines
Catalogs
Cereal boxes
Telephone books
Printer paper
Copier paper
Mail
All other office paper without wax liners

- All tin cans, bi-metal cans, and aluminum cans must be empty and contain less than 5% food debris.
- All aerosol cans must be empty with less than 5% content
- All plastic containers must be empty, caps removed; less than 5% food debris.
- All fiber must be dry and free of food debris and other contaminating material. Tissues, paper towels or other paper that has been in contact with food is not acceptable.

Materials Not Accepted: All materials not set forth are unacceptable ("Unacceptable Marterials"), including but not limited to:
Microwave trays
Mirrors
Window or auto glass
Light Bulbs

Ceramics
Porcelain
Plastics unnumbered
Plastic bags and other film plastic
Coat hangers
Glass cookware/bakeware
Household items such as cooking pots, toasters, etc.
Green Waste -tree branches / yard clippings
Automotive parts - batteries
Diapers
Large Bulk Metal Items
Garden Hoses

SOLID WASTE DISPOSAL AGREEMENT
OPTION B (2-Year)

This SOLID WASTE DISPOSAL AGREEMENT ("**Agreement**") is made and entered into as of the day set herein, by and between Waste Management of Arizona, Inc. ("**WMA**" or "Contractor") and the City of Peoria, an Arizona municipal corporation ("**City**"). WMA and City may be referred to herein collectively as the "Parties" and individually as a "Party" WMA and City.

RECITALS

A. WMA owns and operates environmentally-sound and permitted solid waste disposal sites located in Maricopa County, State of Arizona, such as the Northwest Regional Landfill ("**Northwest**") and Deer Valley Transfer Station ("**Deer Valley**") (collectively, the "**Disposal Sites**").

B. City is a municipality, which provides for the collection and transportation of municipal solid waste of its residents and commercial businesses, and City desires environmentally sound solid waste disposal sites for the disposal of such solid waste materials.

C. WMA and City entered into a Previous Solid Waste Disposal Agreement dated July 1, 2002, (LCON # 04002). WMA and the City wish to terminate the Previous Agreement and any subsequent amendments ("Previous Agreement").

D. The Previous Agreement is to be terminated as of the Effective Date of this Agreement and any provisions in the Previous Agreement regarding termination, notice and/or penalties/damages, if any, are waived by the Parties.

E. The termination of the Previous Agreement on the agreed Effective Date shall not affect any of the rights or obligations of either Party to the Previous Agreement accruing prior to the Effective Date.

F. The Parties acknowledgment and agreement to terminate the Previous Agreement is evidenced by the Parties signature below.

G. City and WMA desire to terminate the Previous Agreement and enter into this Agreement to provide for the disposal of City Acceptable Waste and recycling of City Recyclables.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the Parties, intending to be legally bound, hereby agree as follows:

1. **DEFINITIONS**. As used in this Agreement, the following terms shall have the following meanings:

1.1 "**Acceptable Waste**" shall mean any and all waste that is Solid Waste, including Unacceptable Material, but not Excluded Waste, Recyclables, Sewage Sludge or Special Waste.

1.2 "**Agreement**" shall mean this Solid Waste Disposal Agreement between City and WMA, as it may be amended or modified in writing from time to time.

1.3 "**Base Rate**" shall mean the initial per ton disposal fee to be paid by City to WMA as compensation for disposal of Acceptable Waste, as set forth in and adjusted in accordance with Section 3 of this Agreement.

1.4 "**City**" shall mean the City of Peoria, an Arizona municipal corporation.

1.5 "**City Acceptable Waste**" shall mean Acceptable Waste received at a Disposal Site from the City pursuant to this Agreement.

1.6 "**City Recyclables**" shall mean Recyclables received at a Disposal Site from the City pursuant to this Agreement.

1.7 **"Designated Materials"** shall mean (i) at least 90% of Acceptable Waste and at least 6,000 tons per year of Recyclables collected by the City from single family residential premises located within the City, and (ii) at City's discretion, Sewage Sludge generated by City owned and/or operated waste water treatment facilities

1.8 "**Disposal Sites**" shall mean, collectively, those certain permitted Solid Waste Disposal Sites owned and operated by WMA located in Maricopa County, State of Arizona, and known as Northwest Regional Landfill and Deer Valley Transfer Station.

1.9 "**Effective Date**" The term of any resultant contract shall commence One (1) day following the date of award.

1.10 "**Equipment**" shall mean any and all containers, tractors, trailers, motor vehicles, cranes, top pickers and other equipment utilized by City and/or WMA for the collection, transportation, handling, processing and disposal of Acceptable Waste and Recyclables pursuant to this Agreement.

1.11 "**Excluded Waste**" shall mean waste that: (a) is prohibited from receipt at the applicable Disposal Site by state, federal or local law, regulation, rule, code, ordinance, order, license, permit or permit condition; (b) is or contains Hazardous Waste as defined below; (c) WMA reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions applicable to the Disposal Site; or (d) WMA reasonably believes would present a significant risk to human health or the environment, or otherwise create or expose WMA or City to potential liability.

1.12 "**Hazardous Waste**" shall mean waste that is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" or "dangerous waste," pursuant to any state or federal law and waste containing any substance or material defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste," pollutants or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to federal, state or local laws, but shall not include any Special Waste as defined below.

1.13 "**Recyclable**" or "**Recyclables**" means a material or group of materials that can be processed into a form suitable for reuse through reprocessing or remanufacture. However, Recyclables shall not be classified as such if commingled with materials that contain twenty five percent (25%) or more of non-recyclable. The initial list of Recyclables is identified as Recyclables in Exhibit A. WMA may add materials to the list of Recyclables at its discretion.

1.14 "**Previous Agreement**" means the WMA and City's Solid Waste Disposal Agreement entered into July 1, 2002, (LCON # 04002) and any amendments.

1.15 "**Sewage Sludge**" means solid, semisolid or liquid residue that is generated during the treatment of domestic sewage in a treatment works. Sewage Sludge includes domestic septage, scum or solids that are removed in primary, secondary or advanced wastewater treatment processes, and any material derived from sewage sludge. It does not include ash that is generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings that are generated during preliminary treatment of domestic sewage in a treatment works.

1.16 "**Solid Waste**" shall mean any and all putrescible and non-putrescible solid and semi-solid waste, including garbage, refuse or rubbish resulting from residential, industrial, commercial, community and municipal activities, including, but not limited to, demolition and construction wastes, food and beverage containers, paper, rubbish, ashes, vehicle parts, discarded home appliances, yardwaste (including grass clippings), vegetable wastes and Sewage Sludge.

1.17 "**Special Waste**" shall mean Solid Waste that is bulky or may require special handling at the Disposal Site, including, without limitation, tires, white goods, appliances, and batteries.

1.18 "**Unacceptable Material**" shall mean that portion of the material included in a delivery of source-separated or commingled Recyclables that is not a Recyclable up to 25%. A partial listing of Unacceptable Material is set forth in Exhibit A.

1.19 "**Uncontrollable Circumstances**" shall mean Acts of God including landslides, lightning, unforeseeable storms, floods not in floodplain, unforeseeable freezing, and earthquakes; forest fires; civil disturbances; strikes; lockouts or other industrial disturbances; acts of the public enemy other than WMA employees; wars; pandemic outbreaks; blockades; public

riots; unforeseeable breakage; explosions; negligent accident to machinery, pipelines or materials; power failure; governmental restraint; damage to or destruction of the Disposal Site as a result of events such as those described herein not caused by acts of WMA.

2. **DELIVERY OF ACCEPTABLE WASTE, RECYCLABLES AND SEWAGE SLUDGE.** Beginning on the Effective Date, and throughout the term of this Agreement, City shall cause to be delivered to the Disposal Sites, and WMA shall accept for disposal or recycling, the "Designated Materials". Nothing herein shall prevent any owner, occupant or tenant of residential premises within the area of City from personally handling, hauling, or transporting Acceptable Waste or Recyclables generated by or from his/her own residence for the purpose of disposing of the same at any authorized disposal area or transfer station. If the City contracts out the collection of Acceptable Waste or Recyclables from single family residential premises (e.g., exclusive or non-exclusive collection franchise), a minimum of 90% of such Acceptable Waste and 6,000 tons per year of such Recyclables shall be delivered to and accepted at a Disposal Site. The rates charged to the City hereunder shall also apply to the City's contract collector(s).

WMA will notify the City if the list of Recyclables set forth in Exhibit A can be expanded to include additional types of material. Furthermore, if WMA becomes aware of ways in which the City could improve its Solid Waste diversion, WMA will offer consulting assistance, at no charge to the City~~,~~ and in implementing such improvements.

3. WMA COMPENSATION.

3.1 Base Rates. WMA shall charge City, and City shall pay to WMA for disposal services, the following initial disposal rates:

a. Acceptable Waste:
   i. Deer Valley Transfer Station: $24.00 per ton
   ii. Northwest Regional Landfill: $20.00 per ton

b. Special Waste:
   i. Northwest Regional Landfill: The lower of the posted gate rate (between Deer Valley Transfer Station and Northwest Regional Landfill) for such waste as of the date of disposal.

c. Sewage Sludge:
   i. Deer Valley Transfer Station: The Acceptable Waste Base Rate
   ii. Northwest Regional Landfill: The Acceptable Waste Base Rate minus $1.00/ton

d. Current Fuel Surcharge $1.22 per ton

The Base Rates includes all federal, state and local taxes, fees and assessments levied on or applicable to the disposal of solid waste as of the Effective Date. In charging the Base Rate hereunder, WMA shall determine the tonnage of Acceptable Waste by weighing the City's vehicles at the Disposal Site.

3.2 Fuel Surcharge and CPI Adjustments. On or before each November 30 during the term of this Agreement, WMA will provide written notification to the City of any annual Fuel Surcharge adjustment and/or biannual CPI adjustment that will become effective the following July 1 (the "**Adjustment Date**"). Failure of WMA to provide timely notice as provided for in this section shall not relieve the City of any of its obligations under the Agreement, but shall act to only delay such obligations until notice is given.

3.2.1 Fuel Surcharge. In addition to the Base Rate, as part of the compensation payable by the City to WMA for disposal services at Deer Valley Transfer Station, City shall pay WMA a Fuel Surcharge to account for fluctuations in diesel fuel prices. The fuel surcharge shall not apply to disposal services provided to the City at Northwest Regional Landfill.

Calculation of the initial Fuel Surcharge is based on a base Fuel Price of $1.29. On each July 1 during this Agreement, the Fuel Surcharge will be adjusted based on the immediately preceding twelve-month period ending June 30. The amount of the adjustment shall be calculated by:

(a) Subtracting the base Fuel Price ($1.29) from the Average Fuel Price (as defined below) for the preceding twelve-month period ending June 30; and

(b) Multiplying the result by a fuel factor of 0.81 to produce the new Fuel Surcharge.

As used herein, "Average Fuel Price" means the average monthly diesel fuel price, as published by the U.S. Department of Energy: http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp. (See U.S. No 2 Diesel Retail Prices by All Sellers (Cents per Gallon) at the historical data worksheet titled, "Data 2-M Diesel Prices – All Types.")

For example, before November 30, 2010, WMA would have subtracted the base Fuel Price ($1.29) from the Average Fuel Price for the twelve months ending June 30, 2011 (assume $2.80), and multiplied the difference ($1.51) by the fuel factor (0.81) to determine the Fuel Surcharge (equal to $1.22 /ton) that would have been effective July 1, 2011.

In the event the Average Fuel Price for the applicable preceding twelve-month period ending June 30th is less than the base Fuel Price, the Fuel Surcharge will be zero ($0.00) for the applicable following year period.

3.2.2 CPI Adjustment. Bi-annually (on every other Adjustment Date), commencing with the July 1, 2012 Adjustment Date, the then-current Base Rates, as adjusted under this Section 3, shall be automatically adjusted by the average percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) West Region, 1982-84=100, published by the United States Department of Labor, Bureau of Labor Statistics ("**BLS**"). Both parties will agree to refer to the BLS Internet Site (http://stats.bls.gov/cpi/) or other agreed upon BLS source to calculate the CPI-adjusted Base Rate hereunder as follows: find the average West Region CPI-U HALF 1 published for the two years immediately preceding the Adjustment Date (the "first period"), and divide by the average of the West Region CPI-U HALF 1 published for the two-years prior to the "first period." The resulting quotient would then be multiplied by the existing

Base Rates to calculate the new Base Rates for the next two-year period. This method of calculation will then be used for review of rate adjustment for each future biennial review. If there is no positive increase in the CPI average, there will be no change to the Base Rates for any following adjustment period until the next biennial review. The rate adjustment under this section 3.2.2 shall go into effect during the first billing cycle for the month of July, following the new Base Rate calculation.

Example:

For example, the modified methodology to determine the New Base Rate effective July 1, 2012, utilizing a fictitious figure of $25.00 for the Base Rate, is as follows:

CPI HALF 1 Average 2008 = 219.016
CPI HALF 1 Average 2009 = 217.786
Average CPI for "first period" = 218.401

CPI HALF 1 Average 2010 = 220.790
CPI HALF 1 Average 2011 = 226.428
Average CPI for this example "prior" period = 223.609

Divide 223.609/218.401 = 1.024 x $25.00 = $25.60 (Fictitious New Base Rate)
.

3.3 Other Rate Adjustments. WMA may increase the Base Rates to posted gate rates in the event City fails to deliver to the Disposal Site all Designated Material. WMA may also increase the Base Rates to reflect WMA's actual increased costs due to changes in federal, state or local laws, statutes, rules, regulations, ordinances or permit conditions occurring after the Effective Date, except when permit conditions change as a result of WMA actions. WMA may also increase the Base Rates for any tax, tariff, fee, assessment or other charge levied or assessed by a governmental authority on the storage, handling, transportation or disposal of solid waste after the Effective Date. WMA may also increase the Base Rate for actual increased costs resulting from Uncontrollable Circumstances as defined in Section 10. All rate adjustments under this Section 3.3 shall be subject to mutual agreement and take effect upon 30 day written notice from WMA. The City, with good cause, may withhold this approval.

3.4 Omitted.

3.5 Payment. On a monthly basis during the term of this Agreement, WMA shall invoice City for City Acceptable Waste delivered to Disposal Facilities during the preceding month. The City shall pay the full amount of each invoice to WMA within thirty (30) days of the date of each invoice unless the City disputes an amount on the invoice. The City will pay any amounts not in dispute within the 30-day time frame. The City shall pay a late fee and service charge on all past due amounts, not in dispute, accruing from the date of receipt of the invoice at a rate of twelve percent (12%) per annum or, if less, the maximum rate allowed by law. On a monthly basis, WMA shall transmit a statement to the City detailing amounts due and paid by the City during the preceding month.

3.6 Residential Drop-Off Rates. Upon presentation of evidence satisfactory to WMA that an individual is a resident of the City of Peoria, such individual will be permitted to dispose of residential waste at the same rate per ton as set forth in Section 3.1, subject to a $7.50 minimum charge per entry for disposal. Residential drop-off rates will be adjusted as per the CPI adjustment in section 3.2.2.

3.7 Omitted.

3.8 Recyclables Rebate. Each month, WMA shall pay the City a percentage of the total tonnage of City Recyclables (including commingled Unacceptable Material) received at the Disposal Sites multiplied by the Blended Rate (the "**Recycling Rebate**"). The "Blended Rate" is the sum of weighted average per ton sales prices of City Recyclables categories (e.g., cardboard, newspaper, etc.) and Unacceptable Material. However, in no event shall the Blended Rate be less than $110 for the purpose of calculating the Recycling Rebate. At least once each month, WMA will perform an audit of City Recyclables and determine the percentage of each City Recyclable category of total City Recyclables and Unacceptable Material. When determining the weighted average per ton sales price of City Recyclables categories, WMA will calculate the average City Recyclables category percentages of the six previous City Recyclables audits and multiply such percentage by the actual price per ton at which the commodity category was sold.

The Recycling Rebate percentage will depend on the Blended Rate, as follows:

Blended Rate	Recycling Rebate percentage
$120 or less	14%
$120.01 to $130	18.5%
$130.01 to $150	23.5%
$150.01 to $180	27.5%
$180.01 and up	29.5%

The Recycling Rebate shall increase by $10.00 per ton for Recyclables delivered to Northwest Regional Landfill, as opposed to Deer Valley Transfer Station.

The following hypothetical illustrates how the Recycling Rebate is calculated:

Commodity Category[1]	Percentage of Total[2]	Price/ton[3]	Weighted Price
Cardboard	20%	$201.00	$40.20/ton
Newspaper	55%	$179.00	$98.45/ton
Mixed Paper	7%	$174.00	$12.18/ton
Aluminum	3%	$1,302.00	$39.06/ton
Unacceptable Material	15%	$0	$0
Total	100%		

[1] There are other categories of commodities, but they were excluded for the sake of simplicity.
[2] This is a hypothetical average of six City Recyclables audits, wherein WMA calculates the percentage of each City Recyclable category of the total amount of City Recyclables received.
[3] These are hypothetical prices at which WMA sold City Recyclables.

Blended Rate		$189.89/ton
Recycling Rebate/ton for Deer Valley	(29.5% of Blended Rate)	$56.02
Recycling Rebate/ton for Northwest	(29.5% + $10.00)	$66.02

4. **EXCLUDED WASTE; UNACCEPTABLE MATERIAL; INSPECTION, REJECTION**. Prior to delivery to the Disposal Site, the City shall inspect all Designated Material and shall remove any and all Excluded Waste. WMA shall have the right, but not the obligation, to inspect, analyze or test any material delivered by the City to a Disposal Facility. WMA shall have the right to reject, refuse or revoke acceptance of any delivered material if, in the opinion of WMA, such material or tender of delivery fails to conform to, or the City fails to comply with, the terms of this Agreement, including the delivery of waste meeting the definition of Acceptable Waste hereunder. However, if a delivery of Recyclables contains between 0% and 40% of Unacceptable Material (but no Excluded Material), WMA shall accept such delivery and endeavor to dispose of the Unacceptable Material as Acceptable Waste. In the event WMA, by notice to the City, rejects or revokes acceptance of waste or Recyclables hereunder, the City shall, at its sole cost, immediately remove or arrange to have the rejected material removed from WMA's control or property. If the rejected material is not removed within 24 hours from receipt of notice, WMA shall have the right and authority to handle and dispose of the rejected or Excluded Waste. The City shall reimburse WMA for any and all costs, damages and fines incurred as a result of or relating to City's tender or delivery of Excluded Waste or other failure to comply or conform to this Agreement, including, without limitation, costs of inspection, testing, analysis, handling and disposal of Excluded Waste. Title to, ownership of and liability for Excluded Waste shall at all times remain with the City.

5. **ADDITIONAL SERVICES**. In the event the City desires WMA to provide services in addition to the services provided for herein, the City and WMA shall negotiate in good faith the terms under which such services will be provided, including the compensation to be paid WMA to perform such additional services. Any such agreement to perform additional services shall be set forth in writing, signed by duly authorized personnel of each of the parties.

6. **COMPLIANCE WITH LAWS**. The City and WMA shall fully comply with all federal, state and local statutes, regulations, permits, approvals and restrictions, any legal entitlement and any other rule, regulation, requirement, guideline, permit, action, determination or order of any governmental body having jurisdiction, that is/are applicable to the collection, handling, transport, processing, storage or disposal of Solid Waste, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, building codes, non-discrimination and the payment of minimum wages.

7. **TERM OF AGREEMENT**. **The initial term of this Agreement shall be two (2) years, commencing on the Effective Date and ending at midnight on the day that is two (2) years later. This Agreement may be renewed for four (4) additional two (2) year period upon the mutual written agreement of the Parties**

8. **LIMITED LICENSE TO ENTER.** City and its subcontractors shall have a limited license to enter the Disposal Sites for the sole purpose of off-loading Acceptable Waste and Recyclables at an area designated, and in the manner directed, by WMA. The City shall, and shall ensure that its subcontractors, comply with all rules and regulations of the Disposal Site, including those relating to the use and operation of the Disposal Site and conduct of persons on the premises of the Disposal Site, as the same may be amended by WMA from time to time. In the event of an accident at the disposal site, the City of Peoria will have the right to enter the property to take pictures, take a report and have a police officer respond if necessary.

9. **TIME OF DELIVERY.** The City shall be entitled to deliver Acceptable Waste to Deer Valley Transfer Station Monday through Saturday (excluding holidays) between the hours of 5:00 am and 5:00 pm, and Acceptable Waste and Recyclables Northwest Regional Landfill Monday through Friday (excluding holidays) between the hours of 7:00 am and 4:00 pm. Additional hours will be as authorized by WMA, with the posted off-hours premium being added to the otherwise applicable Disposal Rate. Resident drop-off hours will initially be between the hours of 7:00 am and 5:00 pm Monday through Friday and 7:00 am to 1:00 pm Saturday (excluding holidays) at both Disposal Sites, and the parties will mutually agree in writing to any changes in operational hours. The Disposal Sites will be closed for the holidays of New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. The hours of operation are subject to change upon the delivery of thirty (30) days' written notice to the City, provided the City concurs in writing with such change. The City will not withhold approval without good cause.

10. **UNCONTROLLABLE CIRCUMSTANCES**. Provided that the requirements of this Section are met, neither Party shall be considered in default in the performance of its obligations under this Agreement (not including the obligation to make payments) to the extent that such performance is prevented or impaired by the occurrence of Uncontrollable Circumstances. If, as a result of an event of Uncontrollable Circumstances, either Party is wholly or partially unable to meet its obligations under this Agreement, then it shall give the other Party prompt written notice of such event, describing it in reasonable detail. The obligations under this Agreement of the affected Party shall be suspended, other than for payment of monies due, but only with respect to the particular component of obligations affected by the event and only for the period during which the event of Uncontrollable Circumstances exists; provided, however, that WMA shall have a reasonable time during which to assess the impacts caused by an event of Uncontrollable Circumstances and sole discretion to determine whether it will make repairs and resume all or part of the operations or whether it will terminate all operations at the Disposal Site.

11. **TERMINATION; DEFAULT**. Either Party shall have the right to terminate this Agreement upon giving the other Party written notice if the other Party (i) fails to make any payment required hereunder within ten (10) days after receiving notice of nonpayment from the non-defaulting Party, or (ii) breaches any of its representations and warranties set forth in Sections 13 or 14 below, or (iii) fails to comply with any federal, state or local laws, rules, orders or ordinances, or regulations that pertain to the collection, handling, storage, transportation, processing and/or disposal of the Acceptable Waste or Recyclables, or (iv) defaults in the performance of any other material obligation of the defaulting Party under this Agreement and

fails to cure such default within thirty (30) days after receiving written notice thereof from the non-defaulting Party. In addition, WMA shall have the right to terminate this Agreement upon ninety (90) days' written notice to City if the laws, regulations or orders of any governmental body having jurisdiction over WMA prohibit WMA from operating a Disposal Site as contemplated in this Agreement.

12. **RIGHT TO TERMINATE WITHOUT CAUSE; LIQUIDATED DAMAGES**. Neither party shall have the right to terminate this Agreement except for cause as provided in Section 11. Notwithstanding the foregoing limitation on the right to terminate this Agreement, in the event the City elects to terminate this Agreement without cause during the initial term and the City provides not less than Six months' notice thereof, the City agrees to pay WMA by no later than the termination date, as liquidated damages and not a penalty, an amount equal to the total amount billed to the City with respect to the most recent month prior to the termination date of which complete billings are available, multiplied by twelve; Beyond the initial term, either party may terminate this Agreement without cause by giving the other party one hundred eighty (180) days prior notice and such termination is not subject to liquidated damages.

13. **WARRANTIES OF THE CITY**. The City warrants and represents that:

13.1 Waste delivered to Disposal Sites from the City or otherwise by the City or its agents or subcontractors shall conform to the definitions of Acceptable Waste or Recyclables, as set forth in Sections 1.1 and 1.12 of this Agreement, and shall not contain any Excluded Waste. Deliveries identified by the City as Recyclables shall contain no more than 40% Unacceptable Material and not contain any Excluded Waste;

13.2 The City shall establish and maintain a program of operating and monitoring procedures for its Solid Waste collection activities to prevent the transportation or delivery to the Disposal Sites of Excluded Waste and minimize the inclusion of Unacceptable Materials with Recyclables;

13.3 The City possesses the Equipment, plant and employee or subcontractor resources required to meet its obligations required under this Agreement, and the Equipment shall, at all times relevant to the performance of services hereunder, be maintained in a good and safe condition and fit for use;

13.4 The City shall, and shall cause any of its subcontractors to, collect, handle and transport all Solid Waste in a safe and workmanlike manner in full compliance with all applicable federal, state and local laws, ordinances, decisions, orders, rules or regulations; and

13.5 The City has advised its drivers and its transfer station operators of WMA's prohibition on delivery of Excluded Waste, limitations on acceptance of Unacceptable Material, of the definitions and listing of Hazardous Waste under applicable federal and state law and regulations and of the definitions of Acceptable Waste, Recyclables and Unacceptable Materials herein.

14. **WARRANTIES OF WMA**. WMA warrants and represents that:

14.1 It possesses the Equipment, plant and employee resources required to meet its obligations required under this Agreement, and the Equipment shall, at all times relevant to the performance of services hereunder, be maintained in a good and safe condition and fit for use;

14.2 The Disposal Sites have been issued, and WMA will maintain throughout the term of this Agreement, all permits, licenses, certificates or approvals required by valid and applicable laws, ordinances and regulations necessary to allow the Disposal Sites to accept, dispose of and/or recycle Acceptable Waste and Recyclables (Northwest only); and

14.3 It will handle and dispose of the Acceptable Waste and Recyclables in a safe and workmanlike manner in full compliance with all valid and applicable federal, state and local laws, ordinances, orders, rules and regulations.

15. **INSURANCE**. WMA and City each warrants that it shall, and shall ensure that its subcontractors, secure and maintain in full force and effect throughout the term of this Agreement insurance coverage for commercial general liability (bodily injury and property damage), automobile liability and workers' compensation insurance with limits that are required by appropriate regulatory agencies or the following limits, whichever are greater: commercial general liability, $2,000,000 combined single limit per occurrence and aggregate; automobile liability, $2,000,000 combined single limit per occurrence and aggregate; workers' compensation, statutory limit; and pollution legal liability, $5,000,000 per occurrence, $10,000,000 aggregate.

16. INDEMNITY.

16.1 Indemnity. Each Party ("Indemnitor") shall defend, indemnify and hold harmless the other Party and its employees, officers, agents and subcontractors (collectively, "Indemnitees"), from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, judgments and costs and expenses incidental thereto, including reasonable attorneys' fees (collectively, "Damages"), which any or all of the Indemnitees may hereafter suffer, incur, be responsible for or pay out as a result of personal injuries, property damage, or contamination of or adverse effects on the environment, to the extent directly or indirectly caused by, or arising from or in connection with the breach of any representations and warranties of the Indemnitor set forth above, or any negligent actions or omissions of Indemnitor, its employees, officers, owners, directors, agents or subcontractors, in the performance of this Agreement. Such indemnity shall be limited to exclude Damages to the extent they arise as a result of any negligent actions or omissions of any of the Indemnitees. Notwithstanding the foregoing or anything else in this

Agreement to the contrary, City shall be liable and shall defend, indemnify and hold harmless WMA for Damages (including, but not limited to, reasonable investigation and legal expenses) arising from, related to or caused by the presence, handling or disposal of Excluded Waste that is generated, received, handled, processed at, or transported or originating from, City's transfer station or otherwise from City.

16.2 Notice, Defense. In the event of any suit against any Indemnitee under this Section 16, the Indemnitor shall appear and defend such suit provided that the Indemnitor is notified in a timely manner of the suit. The Indemnitee shall have the right to approve counsel chosen by the Indemnitor to litigate such suit which approval shall not be unreasonably withheld. In the event a dispute exists over whether a Party is entitled to indemnification, each Party shall defend itself until the dispute is resolved. Upon resolution of the indemnification dispute, the prevailing Party shall be entitled to indemnification for its defense costs incurred prior to resolution.

16.3 Insurance. The indemnification obligation hereunder shall arise only in excess of any available and collectible insurance proceeds and the party indemnifying the other party shall be liable hereunder to pay only its share of the amount of Damages, if any, that exceeds the total amount that all insurance has paid for the Damages, plus the total amount of all deductible and self-insured expenses paid under all insurance policies.

17. **BINDING EFFECT, ASSIGNMENT**. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns provided that the rights, obligations and duties of each Party as specified in this Agreement may not be transferred, assigned or otherwise vested in any other company, entity, or person without the prior written approval of the other Party which approval shall not be unreasonably withheld. Notwithstanding the foregoing, WMA may assign or transfer its rights and obligations hereunder to a subsidiary of WMA's parent company without seeking or obtaining the approval of the City.

18. **NOTICES**. All notices required under this Agreement shall be personally delivered or mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight carrier, or confirmed facsimile to the Parties' addresses on the signature page hereto, or to such other address as either Party shall specify by written notice so given. Any notice sent by mail in the manner set forth above shall be deemed given and received three (3) business days after the date deposited in the United States mail. Any notice or communication given by personal delivery or sent by overnight carrier or confirmed facsimile in the manner set forth above shall be deemed given upon receipt.

19. **NON-WAIVER**. The failure of either Party to enforce its rights under any provision of this Agreement shall not be construed to be a waiver of such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other breach.

20. WEIGHING OF ACCEPTABLE WASTE AND RECYCLABLES.

20.1 Calibration. WMA shall at all times maintain in proper working order the weighing devices at the facility and shall calibrate and re-calibrate such devices as needed and as required by the Arizona Department of Weights and Measures. Calibration records shall be available for inspection by the City of Peoria.

20.2 Tare Weight. Each vehicle delivering Acceptable Waste or Recyclables shall have a vehicle identification number permanently indicated and conspicuously displayed on the exterior of the vehicle which is readily visible by weigh scale operators. Peoria shall provide a certified tare weight for each such identified vehicle. Incoming Acceptable Waste and Recyclables shall be weighed. Weights shall then be recorded. From time to time, the parties may require revalidation of the tare weight of any vehicle or re-weighing of unloaded trucks. Peoria, at no extra cost, shall have the right to monitor the weighing of all vehicles delivering Acceptable Waste or Recyclables to the site. In the event the scales become temporarily inoperable, both parties shall agree to a weight delivered to the facility by using truck volume and historical data. Those estimates shall serve as official records for the duration of the scale outage.

THE FOLLOWING CITY OF PEORIA STANDARD TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE CONTRACT. IN THE EVENT OF CONFLICT BETWEEN THE AGREEMENT AND THE STANDARD TERMS AND CONDITIONS, THE PROVISIONS OF THE AGREEMENT WILL PREVAIL.

1. **CERTIFICATION:** By signature in the Offer section of the Offer and Contract Award page , the Vendor certifies:

   a. The submission of the offer did not involve collusion or other anti-competitive practices.

   b. The Vendor shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

   c. The Vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

2. **GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event this contract is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible city government customers shall not be prohibited by this paragraph.

3. **APPLICABLE LAW:** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

   This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

   This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the

contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

4. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code as of the date of this agreement.

5. **CONTRACT:** The contract between the City and the Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, and any amendments thereto, and (2) the offer submitted by the Vendor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of the Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.

6. **CONTRACT AMENDMENTS:** This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.

7. **CONTRACT APPLICABILITY:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific Contract. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the City are not applicable to this Solicitation or any resultant contract.

8. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.

9. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

10. **RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.

11. **INTERPRETATION-PAROL EVIDENCE:** This contract represents the entire agreement

of the Parties with respect to its subject matter, and all pervious agreements, whether oral or written, entered into prior to this contract are hereby revoked and superseded by this contract. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this contact. This contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both Parties. Any attempt at oral modification of this contract shall be void and of no effect.

12. **ASSIGNMENT-DELEGATION:** No right or interest in this contract shall be assigned by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City.

13. **SUBCONTRACTS:** No subcontract shall be entered into by the contractor with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the City. The prime contractor shall itemize all sub-contractors which shall be utilized on the project. Any substitution of sub-contractors by the prime contractor shall be approved by the City and any cost savings will be reduced from the prime contractor's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract and if the Subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not Subcontractors are used.

14. **RIGHTS AND REMEDIES:** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.

15. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

16. **FORCE MAJEURE:** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God: acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by

government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

Force majeure shall not include the following occurrences:

a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.

b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

17. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

18. **RIGHT TO AUDIT RECORDS:** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City.

19. **RIGHT TO INSPECT PLANT:** The City may, at reasonable times, inspect the part of the plant or place of business of a Contractor or Subcontractor which is related to the performance of any contract as awarded or to be awarded.

20. **WARRANTIES:** Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Contractor's response, the City is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by

the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

21. **INSPECTION:** All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. The City may elect to do any or all:

    a. Waive the non-conformance.

    b. Stop the work immediately.

    c. Bring material into compliance.

    This shall be accomplished by a written determination for the City.

22. **TITLE AND RISK OF LOSS:** The title and risk of loss of material and/or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

23. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

24. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment of lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the City, shall constitute a breach of the Contract as a whole.

25. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

26. **LIENS:** All materials, service or construction shall be free of all liens, and if the City requests, a formal release of all liens shall be delivered to the City.

27. **LICENSES:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

28. **PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City.

29. **PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL:** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.

30. **COST OF BID/PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

31. **PUBLIC RECORD:** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

32. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the City.
33. **DELIVERY ORDERS:** The City shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the Offer and Contract Award .

34. **FUNDING:** Any contract entered into by the City of Peoria is subject to funding availability. Fiscal years for the City of Peoria are July 1 to June 30. The City Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

35. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or services and correct invoice.

THE FOLLOWING CITY OF PEORIA SPECIAL TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE CONTRACT. IN THE EVENT OF A CONFLICT BETWEEN THE AGREEMENT AND THE SPECIAL TERMS AND CONDITIONS, THE AGREEMENT WILL PREVAIL.

1. **Purpose:** Pursuant to provisions of the City Procurement Code, the City of Peoria, Materials Management Division intends to establish a contract for Solid Waste Disposal Services.

2. **Authority:** This contract is issued under the authority of the City. No alteration of any resultant contract may be made without the express written approval of the City Materials Manager in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

3. **Contract Type:** Fixed Price

4. **Permits and Approvals:** Contractor agrees and undertakes to obtain necessary permits and approvals from all local, state and federal authorities for the project.

5. **Inspection:** All work shall be subject to inspection, surveillance, and test by the City at reasonable times during the performance. The Contractor shall provide and maintain an inspection system which is acceptable to the City.

6. **Investigation of Conditions:** The Contractor warrants and agrees familiarity of the work that is required, is satisfied as to the conditions under which is performed and enters into this contract based upon the Contractor's own investigation.

7. **Compensation:** Compensation for services shall be based upon fees negotiated, including all approved costs and expenses incurred in connection with the project; including but not limited to, telephone and other communications, reproduction of documents, special consultants (as approved by the City) and computer costs.

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

9. **Insurance Cancellation and Expiration Notice:** Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the City.

10. **Independent Contractor:**

a. General

i. The Contractor acknowledges that all services provided under this Agreement are being provided by him as an independent contractor, not as an employee or agent of the City Manager or the City of Peoria.

ii. Both parties agree that this Agreement is nonexclusive and that Contractor is not prohibited from entering into other contracts nor prohibited from practicing his profession elsewhere.

b. Liability

i. The City of Peoria shall not be liable for any acts of Contractor outside the scope of authority granted under this Agreement or as the result of Contractor's acts, errors, misconduct, negligence, omissions and intentional acts.

ii. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

c. Other Benefits

The Contractor is an independent contractor, therefore, the City Manager will not provide the Contractor with health insurance, life insurance, workmen's compensation, sick leave, vacation leave, or any other fringe benefits. Further, Contractor acknowledges that he is exempt from coverage of the Comprehensive Benefit and Retirement Act (COBRA). Any such fringe benefits shall be the sole responsibility of Contractor.

11. **Confidentiality of Records:** The contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that information contained in its records or obtained from the City or from others in carrying out its functions under the

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

12. **Ordering Process:** Upon award of a contract by the City of Peoria, Materials Management Division may procure the specific material and/or service awarded by the issuance of a purchase order to the appropriate contractor. The award of a contract shall be in accordance with the City of Peoria Procurement Code and all transactions and procedures required by the Code for public bidding have been complied with. A purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the department to order and the contractor to delivery the material and/or service.

    Any attempt to represent any material and/or service not specifically awarded as being under contract with the City of Peoria is a violation of the contract and the City of Peoria Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

13. **Billing:** All billing notices to the City shall identify the specific item(s) being billed and the purchase order number. Items are to be identified by the name, model number, and/or serial number most applicable. Any purchase/delivery order issued by the requesting agency shall refer to the contract number resulting from this solicitation.

14. **Licenses:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

15. **Cancellation:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. The City will issue written notice to the contractor for acting or failing to act as in any of the following:

    a. The contractor provides material that does not meet the specifications of the contract;

    b. The contractor fails to adequately perform the services set forth in the specifications of the contract;

    c. The contractor fails to complete the work required or to furnish the materials required within the time stipulated in the contract;

    d. The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.

    Upon receipt of the written notice of concern, the contractor shall have ten (10) days to

provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies:

e. Cancel any contract;

f. Reserve all rights or claims to damage for breach of any covenants of the contract;

g. Perform any test or analysis on materials for compliance with the specifications of the contract. If the results of any test or analysis find a material non-compliant with the specifications, the actual expense of testing shall be borne by the contractor;

h. In case of default, the City reserves the right to purchase materials, or to complete the required work in accordance with the City Procurement Code. The City may recover any actual excess costs from the contractor by:

   i. Deduction from an unpaid balance;

   ii. Collection against the bid and/or performance bond, or;

   iii. Any combination of the above or any other remedies as provided by law.

IN WITNESS WHEREOF, WMA and the City have executed this Agreement as of the Effective Date written above.

Date Awarded: _____

WMA

By: _____

Its: _____

Date: _____

Address for Notice:
Waste Management
1580 E. Elwood
Phoenix, AZ 85040

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Carl Swenson
Its: ____City Manager_____

Date: _____

Address for Notice:
City of Peoria
8401 West Monroe
Peoria, AZ 85345

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

ATTESTED BY:

_____
Wanda Nelson, City Clerk

EXHIBIT A

SINGLE STREAM SPECIFICATIONS

City shall deliver Commingled Recyclables, consisting of recyclable aluminum, cans, plastics, and paper:

Materials Accepted: Aluminum food and beverage containers
Ferrous (Iron) cans
Glass food and beverage containers – brown, clear, or green
PET plastic containers with the symbol #1 – narrow neck containers only
HDPE natural plastic containers with the symbol #2 – narrow neck containers only (milk and water bottles)
HDPE pigmented plastic containers with the symbol #2 – narrow neck containers only (detergent, shampoo, bleach bottles, etc. without caps)
Plastics with symbols #1- #7-narrow and screw top containers
Newsprint
Old corrugated cardboard
Magazines
Catalogs
Cereal boxes
Telephone books
Printer paper
Copier paper
Mail
All other office paper without wax liners

- All tin cans, bi-metal cans, and aluminum cans must be empty and contain less than 5% food debris.
- All aerosol cans must be empty with less than 5% content
- All plastic containers must be empty, caps removed; less than 5% food debris.
- All fiber must be dry and free of food debris and other contaminating material. Tissues, paper towels or other paper that has been in contact with food is not acceptable.

Materials Not Accepted: All materials not set forth are unacceptable ("Unacceptable Marterials"), including but not limited to:
Microwave trays
Mirrors
Window or auto glass
Light Bulbs

Ceramics
Porcelain
Plastics unnumbered
Plastic bags and other film plastic
Coat hangers
Glass cookware/bakeware
Household items such as cooking pots, toasters, etc.
Green Waste -tree branches / yard clippings
Automotive parts - batteries
Diapers
Large Bulk Metal Items
Garden Hoses

SOLID WASTE DISPOSAL AGREEMENT
OPTION C (5-Year)

This SOLID WASTE DISPOSAL AGREEMENT ("**Agreement**") is made and entered into as of the day set herein, by and between Waste Management of Arizona, Inc. ("**WMA**" or "Contractor") and the City of Peoria, an Arizona municipal corporation ("**City**"). WMA and City may be referred to herein collectively as the "Parties" and individually as a "Party" WMA and City.

RECITALS

A. WMA owns and operates environmentally-sound and permitted solid waste disposal sites located in Maricopa County, State of Arizona, such as the Northwest Regional Landfill ("**Northwest**") and Deer Valley Transfer Station ("**Deer Valley**") (collectively, the "**Disposal Sites**").

B. City is a municipality, which provides for the collection and transportation of municipal solid waste of its residents and commercial businesses, and City desires environmentally sound solid waste disposal sites for the disposal of such solid waste materials.

C. WMA and City entered into a Previous Solid Waste Disposal Agreement dated July 1, 2002, (LCON # 04002). WMA and the City wish to terminate the Previous Agreement and any subsequent amendments ("Previous Agreement").

D. The Previous Agreement is to be terminated as of the Effective Date of this Agreement and any provisions in the Previous Agreement regarding termination, notice and/or penalties/damages, if any, are waived by the Parties.

E. The termination of the Previous Agreement on the agreed Effective Date shall not affect any of the rights or obligations of either Party to the Previous Agreement accruing prior to the Effective Date.

F. The Parties acknowledgment and agreement to terminate the Previous Agreement is evidenced by the Parties signature below.

G. City and WMA desire to terminate the Previous Agreement and enter into this Agreement to provide for the disposal of City Acceptable Waste and recycling of City Recyclables.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the Parties, intending to be legally bound, hereby agree as follows:

1. **DEFINITIONS**. As used in this Agreement, the following terms shall have the following meanings:

1.1 "**Acceptable Waste**" shall mean any and all waste that is Solid Waste, including Unacceptable Material, but not Excluded Waste, Recyclables, Sewage Sludge or Special Waste.

1.2 "**Agreement**" shall mean this Solid Waste Disposal Agreement between City and WMA, as it may be amended or modified in writing from time to time.

1.3 "**Base Rate**" shall mean the initial per ton disposal fee to be paid by City to WMA as compensation for disposal of Acceptable Waste, as set forth in and adjusted in accordance with Section 3 of this Agreement.

1.4 "**City**" shall mean the City of Peoria, an Arizona municipal corporation.

1.5 "**City Acceptable Waste**" shall mean Acceptable Waste received at a Disposal Site from the City pursuant to this Agreement.

1.6 "**City Recyclables**" shall mean Recyclables received at a Disposal Site from the City pursuant to this Agreement.

1.7 **"Designated Materials"** shall mean (i) at least 90% of Acceptable Waste and at least 6,000 tons per year of Recyclables collected by the City from single family residential premises located within the City, and (ii) at City's discretion, Sewage Sludge generated by City owned and/or operated waste water treatment facilities

1.8 "**Disposal Sites**" shall mean, collectively, those certain permitted Solid Waste Disposal Sites owned and operated by WMA located in Maricopa County, State of Arizona, and known as Northwest Regional Landfill and Deer Valley Transfer Station.

1.9 "**Effective Date**" The term of any resultant contract shall commence One (1) day following the date of award

1.10 "**Equipment**" shall mean any and all containers, tractors, trailers, motor vehicles, cranes, top pickers and other equipment utilized by City and/or WMA for the collection, transportation, handling, processing and disposal of Acceptable Waste and Recyclables pursuant to this Agreement.

1.11 "**Excluded Waste**" shall mean waste that: (a) is prohibited from receipt at the applicable Disposal Site by state, federal or local law, regulation, rule, code, ordinance, order, license, permit or permit condition; (b) is or contains Hazardous Waste as defined below; (c) WMA reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions applicable to the Disposal Site; or (d) WMA reasonably believes would present a significant risk to human health or the environment, or otherwise create or expose WMA or City to potential liability.

1.12 "**Hazardous Waste**" shall mean waste that is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" or "dangerous waste," pursuant to any state or federal law and waste containing any substance or material defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste," pollutants or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to federal, state or local laws, but shall not include any Special Waste as defined below.

1.13 "**Recyclable**" or "**Recyclables**" means a material or group of materials that can be processed into a form suitable for reuse through reprocessing or remanufacture. However, Recyclables shall not be classified as such if commingled with materials that contain twenty five percent (25%) or more of non-recyclable. The initial list of Recyclables is identified as Recyclables in Exhibit A. WMA may add materials to the list of Recyclables at its discretion.

1.14 "**Previous Agreement**" means the WMA and City's Solid Waste Disposal Agreement entered into July 1, 2002, (LCON # 04002) and any amendments.

1.15 "**Sewage Sludge**" means solid, semisolid or liquid residue that is generated during the treatment of domestic sewage in a treatment works. Sewage Sludge includes domestic septage, scum or solids that are removed in primary, secondary or advanced wastewater treatment processes, and any material derived from sewage sludge. It does not include ash that is generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings that are generated during preliminary treatment of domestic sewage in a treatment works.

1.16 "**Solid Waste**" shall mean any and all putrescible and non-putrescible solid and semi-solid waste, including garbage, refuse or rubbish resulting from residential, industrial, commercial, community and municipal activities, including, but not limited to, demolition and construction wastes, food and beverage containers, paper, rubbish, ashes, vehicle parts, discarded home appliances, yardwaste (including grass clippings), vegetable wastes and Sewage Sludge.

1.17 "**Special Waste**" shall mean Solid Waste that is bulky or may require special handling at the Disposal Site, including, without limitation, tires, white goods, appliances, and batteries.

1.18 "**Unacceptable Material**" shall mean that portion of the material included in a delivery of source-separated or commingled Recyclables that is not a Recyclable up to 25%. A partial listing of Unacceptable Material is set forth in Exhibit A.

1.19 "**Uncontrollable Circumstances**" shall mean Acts of God including landslides, lightning, unforeseeable storms, floods not in floodplain, unforeseeable freezing, and earthquakes; forest fires; civil disturbances; strikes; lockouts or other industrial disturbances; acts of the public enemy other than WMA employees; wars; pandemic outbreaks; blockades; public

riots; unforeseeable breakage; explosions; negligent accident to machinery, pipelines or materials; power failure; governmental restraint; damage to or destruction of the Disposal Site as a result of events such as those described herein not caused by acts of WMA.

2. **DELIVERY OF ACCEPTABLE WASTE, RECYCLABLES AND SEWAGE SLUDGE.** Beginning on the Effective Date, and throughout the term of this Agreement, City shall cause to be delivered to the Disposal Sites, and WMA shall accept for disposal or recycling, the "Designated Materials". Nothing herein shall prevent any owner, occupant or tenant of residential premises within the area of City from personally handling, hauling, or transporting Acceptable Waste or Recyclables generated by or from his/her own residence for the purpose of disposing of the same at any authorized disposal area or transfer station. If the City contracts out the collection of Acceptable Waste or Recyclables from single family residential premises (e.g., exclusive or non-exclusive collection franchise), a minimum of 90% of such Acceptable Waste and 6,000 tons per year of such Recyclables shall be delivered to and accepted at a Disposal Site. The rates charged to the City hereunder shall also apply to the City's contract collector(s).

WMA will notify the City if the list of Recyclables set forth in Exhibit A can be expanded to include additional types of material. Furthermore, if WMA becomes aware of ways in which the City could improve its Solid Waste diversion, WMA will offer consulting assistance, at no charge to the City~~,~~ and in implementing such improvements.

3. **WMA COMPENSATION**.

3.1 Base Rates. WMA shall charge City, and City shall pay to WMA for disposal services, the following initial disposal rates:

a. Acceptable Waste:
   i. Deer Valley Transfer Station: $23.06 per ton
   ii. Northwest Regional Landfill: $18.39 per ton

b. Special Waste:
   i. Northwest Regional Landfill: The lower of the posted gate rate (between Deer Valley Transfer Station and Northwest Regional Landfill) for such waste as of the date of disposal.

c. Sewage Sludge:
   i. Deer Valley Transfer Station: The Acceptable Waste Base Rate
   ii. Northwest Regional Landfill: The Acceptable Waste Base Rate minus $1.00/ton

d. Current Fuel Surcharge $1.22 per ton

The Base Rates includes all federal, state and local taxes, fees and assessments levied on or applicable to the disposal of solid waste as of the Effective Date. In charging the Base Rate hereunder, WMA shall determine the tonnage of Acceptable Waste by weighing the City's vehicles at the Disposal Site.

3.2 Fuel Surcharge and CPI Adjustments. On or before each November 30

during the term of this Agreement, WMA will provide written notification to the City of any annual Fuel Surcharge adjustment and/or biannual CPI adjustment that will become effective the following July 1 (the "**Adjustment Date**"). Failure of WMA to provide timely notice as provided for in this section shall not relieve the City of any of its obligations under the Agreement, but shall act to only delay such obligations until notice is given.

3.2.1 Fuel Surcharge. In addition to the Base Rate, as part of the compensation payable by the City to WMA for disposal services at Deer Valley Transfer Station, City shall pay WMA a Fuel Surcharge to account for fluctuations in diesel fuel prices. The fuel surcharge shall not apply to disposal services provided to the City at Northwest Regional Landfill.

Calculation of the initial Fuel Surcharge is based on a base Fuel Price of $1.29. On each July 1 during this Agreement, the Fuel Surcharge will be adjusted based on the immediately preceding twelve-month period ending June 30. The amount of the adjustment shall be calculated by:

(a) Subtracting the base Fuel Price ($1.29) from the Average Fuel Price (as defined below) for the preceding twelve-month period ending June 30; and

(b) Multiplying the result by a fuel factor of 0.81 to produce the new Fuel Surcharge.

As used herein, "Average Fuel Price" means the average monthly diesel fuel price, as published by the U.S. Department of Energy: http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp. (See U.S. No 2 Diesel Retail Prices by All Sellers (Cents per Gallon) at the historical data worksheet titled, "Data 2-M Diesel Prices – All Types.")

For example, before November 30, 2010, WMA would have subtracted the base Fuel Price ($1.29) from the Average Fuel Price for the twelve months ending June 30, 2011 (assume $2.80), and multiplied the difference ($1.51) by the fuel factor (0.81) to determine the Fuel Surcharge (equal to $1.22 /ton) that would have been effective July 1, 2011.

In the event the Average Fuel Price for the applicable preceding twelve-month period ending June 30th is less than the base Fuel Price, the Fuel Surcharge will be zero ($0.00) for the applicable following year period.

3.2.2 CPI Adjustment. Bi-annually (on every other Adjustment Date), commencing with the July 1, 2012 Adjustment Date, the then-current Base Rates, as adjusted under this Section 3, shall be automatically adjusted by the average percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) West Region, 1982-84=100, published by the United States Department of Labor, Bureau of Labor Statistics ("**BLS**"). Both parties will agree to refer to the BLS Internet Site (http://stats.bls.gov/cpi/) or other agreed upon BLS source to calculate the CPI-adjusted Base Rate hereunder as follows: find the average West Region CPI-U HALF 1 published for the two years immediately preceding the Adjustment Date (the "first period"), and divide by the average of the West Region CPI-U HALF 1 published for the two-years prior to the "first period." The resulting quotient would then be multiplied by the existing Base Rates to calculate the new Base Rates for the next two-year period. This method of

calculation will then be used for review of rate adjustment for each future biennial review. If there is no positive increase in the CPI average, there will be no change to the Base Rates for any following adjustment period until the next biennial review. The rate adjustment under this section 3.2.2 shall go into effect during the first billing cycle for the month of July, following the new Base Rate calculation.

Example:

For example, the modified methodology to determine the New Base Rate effective July 1, 2012, utilizing a fictitious figure of $25.00 for the Base Rate, is as follows:

CPI HALF 1 Average 2008 = 219.016
CPI HALF 1 Average 2009 = 217.786
Average CPI for "first period" = 218.401

CPI HALF 1 Average 2010 = 220.790
CPI HALF 1 Average 2011 = 226.428
Average CPI for this example "prior" period = 223.609

Divide 223.609/218.401 = 1.024 x $25.00 = $25.60 (Fictitious New Base Rate)
.

3.3 Other Rate Adjustments. WMA may increase the Base Rates to posted gate rates in the event City fails to deliver to the Disposal Site all Designated Material. WMA may also increase the Base Rates to reflect WMA's actual increased costs due to changes in federal, state or local laws, statutes, rules, regulations, ordinances or permit conditions occurring after the Effective Date, except when permit conditions change as a result of WMA actions. WMA may also increase the Base Rates for any tax, tariff, fee, assessment or other charge levied or assessed by a governmental authority on the storage, handling, transportation or disposal of solid waste after the Effective Date. WMA may also increase the Base Rate for actual increased costs resulting from Uncontrollable Circumstances as defined in Section 10. All rate adjustments under this Section 3.3 shall be subject to mutual agreement and take effect upon 30 day written notice from WMA. The City, with good cause, may withhold this approval.

3.4 Omitted.

3.5 Payment. On a monthly basis during the term of this Agreement, WMA shall invoice City for City Acceptable Waste delivered to Disposal Facilities during the preceding month. The City shall pay the full amount of each invoice to WMA within thirty (30) days of the date of each invoice unless the City disputes an amount on the invoice. The City will pay any amounts not in dispute within the 30-day time frame. The City shall pay a late fee and service charge on all past due amounts, not in dispute, accruing from the date of receipt of the invoice at a rate of twelve percent (12%) per annum or, if less, the maximum rate allowed by law. On a monthly basis, WMA shall transmit a statement to the City detailing amounts due and paid by the City during the preceding month.

3.6 Residential Drop-Off Rates. Upon presentation of evidence satisfactory to

WMA that an individual is a resident of the City of Peoria, such individual will be permitted to dispose of residential waste at the same rate per ton as set forth in Section 3.1, subject to a $7.50 minimum charge per entry for disposal. Residential drop-off rates will be adjusted as per the CPI adjustment in section 3.2.2.

3.7 Omitted.

3.8 Recyclables Rebate. Each month, WMA shall pay the City a percentage of the total tonnage of City Recyclables (including commingled Unacceptable Material) received at the Disposal Sites multiplied by the Blended Rate (the "**Recycling Rebate**"). The "Blended Rate" is the sum of weighted average per ton sales prices of City Recyclables categories (e.g., cardboard, newspaper, etc.) and Unacceptable Material. However, in no event shall the Blended Rate be less than $110 for the purpose of calculating the Recycling Rebate. At least once each month, WMA will perform an audit of City Recyclables and determine the percentage of each City Recyclable category of total City Recyclables and Unacceptable Material. When determining the weighted average per ton sales price of City Recyclables categories, WMA will calculate the average City Recyclables category percentages of the six previous City Recyclables audits and multiply such percentage by the actual price per ton at which the commodity category was sold.

The Recycling Rebate percentage will depend on the Blended Rate, as follows:

Blended Rate	Recycling Rebate percentage
$120 or less	14%
$120.01 to $130	18.5%
$130.01 to $150	23.5%
$150.01 to $180	27.5%
$180.01 and up	29.5%

The Recycling Rebate shall increase by $10.00 per ton for Recyclables delivered to Northwest Regional Landfill, as opposed to Deer Valley Transfer Station.

The following hypothetical illustrates how the Recycling Rebate is calculated:

Commodity Category[1]	Percentage of Total[2]	Price/ton[3]	Weighted Price
Cardboard	20%	$201.00	$40.20/ton
Newspaper	55%	$179.00	$98.45/ton
Mixed Paper	7%	$174.00	$12.18/ton
Aluminum	3%	$1,302.00	$39.06/ton
Unacceptable Material	15%	$0	$0
Total	100%		

[1] There are other categories of commodities, but they were excluded for the sake of simplicity.
[2] This is a hypothetical average of six City Recyclables audits, wherein WMA calculates the percentage of each City Recyclable category of the total amount of City Recyclables received.
[3] These are hypothetical prices at which WMA sold City Recyclables.

Blended Rate		$189.89/ton
Recycling Rebate/ton for Deer Valley	(29.5% of Blended Rate)	$56.02
Recycling Rebate/ton for Northwest	(29.5% + $10.00)	$66.02

4. **EXCLUDED WASTE; UNACCEPTABLE MATERIAL; INSPECTION, REJECTION**. Prior to delivery to the Disposal Site, the City shall inspect all Designated Material and shall remove any and all Excluded Waste. WMA shall have the right, but not the obligation, to inspect, analyze or test any material delivered by the City to a Disposal Facility. WMA shall have the right to reject, refuse or revoke acceptance of any delivered material if, in the opinion of WMA, such material or tender of delivery fails to conform to, or the City fails to comply with, the terms of this Agreement, including the delivery of waste meeting the definition of Acceptable Waste hereunder. However, if a delivery of Recyclables contains between 0% and 40% of Unacceptable Material (but no Excluded Material), WMA shall accept such delivery and endeavor to dispose of the Unacceptable Material as Acceptable Waste. In the event WMA, by notice to the City, rejects or revokes acceptance of waste or Recyclables hereunder, the City shall, at its sole cost, immediately remove or arrange to have the rejected material removed from WMA's control or property. If the rejected material is not removed within 24 hours from receipt of notice, WMA shall have the right and authority to handle and dispose of the rejected or Excluded Waste. The City shall reimburse WMA for any and all costs, damages and fines incurred as a result of or relating to City's tender or delivery of Excluded Waste or other failure to comply or conform to this Agreement, including, without limitation, costs of inspection, testing, analysis, handling and disposal of Excluded Waste. Title to, ownership of and liability for Excluded Waste shall at all times remain with the City.

5. **ADDITIONAL SERVICES**. In the event the City desires WMA to provide services in addition to the services provided for herein, the City and WMA shall negotiate in good faith the terms under which such services will be provided, including the compensation to be paid WMA to perform such additional services. Any such agreement to perform additional services shall be set forth in writing, signed by duly authorized personnel of each of the parties.

6. **COMPLIANCE WITH LAWS**. The City and WMA shall fully comply with all federal, state and local statutes, regulations, permits, approvals and restrictions, any legal entitlement and any other rule, regulation, requirement, guideline, permit, action, determination or order of any governmental body having jurisdiction, that is/are applicable to the collection, handling, transport, processing, storage or disposal of Solid Waste, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, building codes, non-discrimination and the payment of minimum wages.

7. TERM OF AGREEMENT. **The initial term of this Agreement shall be five (5) years, commencing on the Effective Date and ending at midnight on the day that is five (5) years later. This Agreement may be renewed for one (1) additional five (5) year period upon the mutual written agreement of the Parties**

8. LIMITED LICENSE TO ENTER. City and its subcontractors shall have a limited license to enter the Disposal Sites for the sole purpose of off-loading Acceptable Waste and Recyclables at an area designated, and in the manner directed, by WMA. The City shall, and shall ensure that its subcontractors, comply with all rules and regulations of the Disposal Site, including those relating to the use and operation of the Disposal Site and conduct of persons on the premises of the Disposal Site, as the same may be amended by WMA from time to time. In the event of an accident at the disposal site, the City of Peoria will have the right to enter the property to take pictures, take a report and have a police officer respond if necessary.

9. TIME OF DELIVERY. The City shall be entitled to deliver Acceptable Waste to Deer Valley Transfer Station Monday through Saturday (excluding holidays) between the hours of 5:00 am and 5:00 pm, and Acceptable Waste and Recyclables Northwest Regional Landfill Monday through Friday (excluding holidays) between the hours of 7:00 am and 4:00 pm. Additional hours will be as authorized by WMA, with the posted off-hours premium being added to the otherwise applicable Disposal Rate. Resident drop-off hours will initially be between the hours of 7:00 am and 5:00 pm Monday through Friday and 7:00 am to 1:00 pm Saturday (excluding holidays) at both Disposal Sites, and the parties will mutually agree in writing to any changes in operational hours. The Disposal Sites will be closed for the holidays of New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. The hours of operation are subject to change upon the delivery of thirty (30) days' written notice to the City, provided the City concurs in writing with such change. The City will not withhold approval without good cause.

10. **UNCONTROLLABLE CIRCUMSTANCES**. Provided that the requirements of this Section are met, neither Party shall be considered in default in the performance of its obligations under this Agreement (not including the obligation to make payments) to the extent that such performance is prevented or impaired by the occurrence of Uncontrollable Circumstances. If, as a result of an event of Uncontrollable Circumstances, either Party is wholly or partially unable to meet its obligations under this Agreement, then it shall give the other Party prompt written notice of such event, describing it in reasonable detail. The obligations under this Agreement of the affected Party shall be suspended, other than for payment of monies due, but only with respect to the particular component of obligations affected by the event and only for the period during which the event of Uncontrollable Circumstances exists; provided, however, that WMA shall have a reasonable time during which to assess the impacts caused by an event of Uncontrollable Circumstances and sole discretion to determine whether it will make repairs and resume all or part of the operations or whether it will terminate all operations at the Disposal Site.

11. **TERMINATION; DEFAULT**. Either Party shall have the right to terminate this Agreement upon giving the other Party written notice if the other Party (i) fails to make any payment required hereunder within ten (10) days after receiving notice of nonpayment from the non-defaulting Party, or (ii) breaches any of its representations and warranties set forth in

Sections 13 or 14 below, or (iii) fails to comply with any federal, state or local laws, rules, orders or ordinances, or regulations that pertain to the collection, handling, storage, transportation, processing and/or disposal of the Acceptable Waste or Recyclables, or (iv) defaults in the performance of any other material obligation of the defaulting Party under this Agreement and fails to cure such default within thirty (30) days after receiving written notice thereof from the non-defaulting Party. In addition, WMA shall have the right to terminate this Agreement upon ninety (90) days' written notice to City if the laws, regulations or orders of any governmental body having jurisdiction over WMA prohibit WMA from operating a Disposal Site as contemplated in this Agreement.

12. **RIGHT TO TERMINATE WITHOUT CAUSE; LIQUIDATED DAMAGES**. Neither party shall have the right to terminate this Agreement except for cause as provided in Section 11. Notwithstanding the foregoing limitation on the right to terminate this Agreement, in the event the City elects to terminate this Agreement without cause during the first three (3) years of the initial term and the City provides not less than Six months' notice thereof, the City agrees to pay WMA by no later than the termination date, as liquidated damages and not a penalty, an amount equal to the total amount billed to the City with respect to the most recent month prior to the termination date of which complete billings are available, multiplied by twelve; Beyond the initial three (3) years, either party may terminate this Agreement without cause by giving the other party one hundred eighty (180) days prior notice and such termination is not subject to liquidated damages.

13. **WARRANTIES OF THE CITY**. The City warrants and represents that:

13.1 Waste delivered to Disposal Sites from the City or otherwise by the City or its agents or subcontractors shall conform to the definitions of Acceptable Waste or Recyclables, as set forth in Sections 1.1 and 1.12 of this Agreement, and shall not contain any Excluded Waste. Deliveries identified by the City as Recyclables shall contain no more than 40% Unacceptable Material and not contain any Excluded Waste;

13.2 The City shall establish and maintain a program of operating and monitoring procedures for its Solid Waste collection activities to prevent the transportation or delivery to the Disposal Sites of Excluded Waste and minimize the inclusion of Unacceptable Materials with Recyclables;

13.3 The City possesses the Equipment, plant and employee or subcontractor resources required to meet its obligations required under this Agreement, and the Equipment shall, at all times relevant to the performance of services hereunder, be maintained in a good and safe condition and fit for use;

13.4 The City shall, and shall cause any of its subcontractors to, collect, handle and transport all Solid Waste in a safe and workmanlike manner in full compliance with all applicable federal, state and local laws, ordinances, decisions, orders, rules or regulations; and

13.5 The City has advised its drivers and its transfer station operators of WMA's prohibition on delivery of Excluded Waste, limitations on acceptance of Unacceptable Material, of the definitions and listing of Hazardous Waste under applicable federal and state law and regulations and of the definitions of Acceptable Waste, Recyclables and Unacceptable Materials herein.

14. **WARRANTIES OF WMA**. WMA warrants and represents that:

14.1 It possesses the Equipment, plant and employee resources required to meet its obligations required under this Agreement, and the Equipment shall, at all times relevant to the performance of services hereunder, be maintained in a good and safe condition and fit for use;

14.2 The Disposal Sites have been issued, and WMA will maintain throughout the term of this Agreement, all permits, licenses, certificates or approvals required by valid and applicable laws, ordinances and regulations necessary to allow the Disposal Sites to accept, dispose of and/or recycle Acceptable Waste and Recyclables (Northwest only); and

14.3 It will handle and dispose of the Acceptable Waste and Recyclables in a safe and workmanlike manner in full compliance with all valid and applicable federal, state and local laws, ordinances, orders, rules and regulations.

15. **INSURANCE**. WMA and City each warrants that it shall, and shall ensure that its subcontractors, secure and maintain in full force and effect throughout the term of this Agreement insurance coverage for commercial general liability (bodily injury and property damage), automobile liability and workers' compensation insurance with limits that are required by appropriate regulatory agencies or the following limits, whichever are greater: commercial general liability, $2,000,000 combined single limit per occurrence and aggregate; automobile liability, $2,000,000 combined single limit per occurrence and aggregate; workers' compensation, statutory limit; and pollution legal liability, $5,000,000 per occurrence, $10,000,000 aggregate.

16. INDEMNITY.

16.1 Indemnity. Each Party ("Indemnitor") shall defend, indemnify and hold harmless the other Party and its employees, officers, agents and subcontractors (collectively, "Indemnitees"), from

and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, judgments and costs and expenses incidental thereto, including reasonable attorneys' fees (collectively, "Damages"), which any or all of the Indemnitees may hereafter suffer, incur, be responsible for or pay out as a result of personal injuries, property damage, or contamination of or adverse effects on the environment, to the extent directly or indirectly caused by, or arising from or in connection with the breach of any representations and warranties of the Indemnitor set forth above, or any negligent actions or omissions of Indemnitor, its employees, officers, owners, directors, agents or subcontractors, in the performance of this Agreement. Such indemnity shall be limited to exclude Damages to the extent they arise as a result of any negligent actions or omissions of any of the Indemnitees. Notwithstanding the foregoing or anything else in this Agreement to the contrary, City shall be liable and shall defend, indemnify and hold harmless WMA for Damages (including, but not limited to, reasonable investigation and legal expenses) arising from, related to or caused by the presence, handling or disposal of Excluded Waste that is generated, received, handled, processed at, or transported or originating from, City's transfer station or otherwise from City.

16.2 Notice, Defense. In the event of any suit against any Indemnitee under this Section 16, the Indemnitor shall appear and defend such suit provided that the Indemnitor is notified in a timely manner of the suit. The Indemnitee shall have the right to approve counsel chosen by the Indemnitor to litigate such suit which approval shall not be unreasonably withheld. In the event a dispute exists over whether a Party is entitled to indemnification, each Party shall defend itself until the dispute is resolved. Upon resolution of the indemnification dispute, the prevailing Party shall be entitled to indemnification for its defense costs incurred prior to resolution.

16.3 Insurance. The indemnification obligation hereunder shall arise only in excess of any available and collectible insurance proceeds and the party indemnifying the other party shall be liable hereunder to pay only its share of the amount of Damages, if any, that exceeds the total amount that all insurance has paid for the Damages, plus the total amount of all deductible and self-insured expenses paid under all insurance policies.

17. **BINDING EFFECT, ASSIGNMENT**. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns provided that the rights, obligations and duties of each Party as specified in this Agreement may not be transferred, assigned or otherwise vested in any other company, entity, or person without the prior written approval of the other Party which approval shall not be unreasonably withheld. Notwithstanding the foregoing, WMA may assign or transfer its rights and obligations hereunder to a subsidiary of WMA's parent company without seeking or obtaining the approval of the City.

18. **NOTICES**. All notices required under this Agreement shall be personally delivered or mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight carrier, or confirmed facsimile to the Parties' addresses on the signature page hereto, or to such other address as either Party shall specify by written notice so given. Any notice sent by mail in the

manner set forth above shall be deemed given and received three (3) business days after the date deposited in the United States mail. Any notice or communication given by personal delivery or sent by overnight carrier or confirmed facsimile in the manner set forth above shall be deemed given upon receipt.

19. **NON-WAIVER**. The failure of either Party to enforce its rights under any provision of this Agreement shall not be construed to be a waiver of such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other breach.

20. WEIGHING OF ACCEPTABLE WASTE AND RECYCLABLES.

20.1 Calibration. WMA shall at all times maintain in proper working order the weighing devices at the facility and shall calibrate and re-calibrate such devices as needed and as required by the Arizona Department of Weights and Measures. Calibration records shall be available for inspection by the City of Peoria.

20.2 Tare Weight. Each vehicle delivering Acceptable Waste or Recyclables shall have a vehicle identification number permanently indicated and conspicuously displayed on the exterior of the vehicle which is readily visible by weigh scale operators. Peoria shall provide a certified tare weight for each such identified vehicle. Incoming Acceptable Waste and Recyclables shall be weighed. Weights shall then be recorded. From time to time, the parties may require revalidation of the tare weight of any vehicle or re-weighing of unloaded trucks. Peoria, at no extra cost, shall have the right to monitor the weighing of all vehicles delivering Acceptable Waste or Recyclables to the site. In the event the scales become temporarily inoperable, both parties shall agree to a weight delivered to the facility by using truck volume and historical data. Those estimates shall serve as official records for the duration of the scale outage.

THE FOLLOWING CITY OF PEORIA STANDARD TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE CONTRACT. IN THE EVENT OF CONFLICT BETWEEN THE AGREEMENT AND THE STANDARD TERMS AND CONDITIONS, THE PROVISIONS OF THE AGREEMENT WILL PREVAIL.

1. **CERTIFICATION:** By signature in the Offer section of the Offer and Contract Award page , the Vendor certifies:

   a. The submission of the offer did not involve collusion or other anti-competitive practices.

   b. The Vendor shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

   c. The Vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

2. **GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event this contract is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible city government customers shall not be prohibited by this paragraph.

3. **APPLICABLE LAW:** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

   This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

   This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the

contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

4. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code as of the date of this agreement.

5. **CONTRACT:** The contract between the City and the Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, and any amendments thereto, and (2) the offer submitted by the Vendor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of the Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.

6. **CONTRACT AMENDMENTS:** This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.

7. **CONTRACT APPLICABILITY:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific Contract. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the City are not applicable to this Solicitation or any resultant contract.

8. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.

9. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

10. **RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.

11. **INTERPRETATION-PAROL EVIDENCE:** This contract represents the entire agreement

of the Parties with respect to its subject matter, and all pervious agreements, whether oral or written, entered into prior to this contract are hereby revoked and superseded by this contract. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this contact. This contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both Parties. Any attempt at oral modification of this contract shall be void and of no effect.

12. **ASSIGNMENT-DELEGATION:** No right or interest in this contract shall be assigned by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City.

13. **SUBCONTRACTS:** No subcontract shall be entered into by the contractor with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the City. The prime contractor shall itemize all sub-contractors which shall be utilized on the project. Any substitution of sub-contractors by the prime contractor shall be approved by the City and any cost savings will be reduced from the prime contractor's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract and if the Subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not Subcontractors are used.

14. **RIGHTS AND REMEDIES:** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.

15. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

16. **FORCE MAJEURE:** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God: acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by

government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

Force majeure shall not include the following occurrences:

a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.

b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

17. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

18. **RIGHT TO AUDIT RECORDS:** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City.

19. **RIGHT TO INSPECT PLANT:** The City may, at reasonable times, inspect the part of the plant or place of business of a Contractor or Subcontractor which is related to the performance of any contract as awarded or to be awarded.

20. **WARRANTIES:** Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Contractor's response, the City is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by

the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

21. **INSPECTION:** All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. The City may elect to do any or all:

    a. Waive the non-conformance.

    b. Stop the work immediately.

    c. Bring material into compliance.

    This shall be accomplished by a written determination for the City.

22. **TITLE AND RISK OF LOSS:** The title and risk of loss of material and/or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

23. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

24. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment of lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the City, shall constitute a breach of the Contract as a whole.

25. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

26. **LIENS:** All materials, service or construction shall be free of all liens, and if the City requests, a formal release of all liens shall be delivered to the City.

27. **LICENSES:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

28. **PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City.

29. **PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL:** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.

30. **COST OF BID/PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

31. **PUBLIC RECORD:** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

32. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the City.
33. **DELIVERY ORDERS:** The City shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the Offer and Contract Award .

34. **FUNDING:** Any contract entered into by the City of Peoria is subject to funding availability. Fiscal years for the City of Peoria are July 1 to June 30. The City Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

35. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or services and correct invoice.

THE FOLLOWING CITY OF PEORIA SPECIAL TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE CONTRACT. IN THE EVENT OF A CONFLICT BETWEEN THE AGREEMENT AND THE SPECIAL TERMS AND CONDITIONS, THE AGREEMENT WILL PREVAIL.

1. **Purpose:** Pursuant to provisions of the City Procurement Code, the City of Peoria, Materials Management Division intends to establish a contract for Solid Waste Disposal Services.

2. **Authority:** This contract is issued under the authority of the City. No alteration of any resultant contract may be made without the express written approval of the City Materials Manager in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

3. **Contract Type:** Fixed Price

4. **Permits and Approvals:** Contractor agrees and undertakes to obtain necessary permits and approvals from all local, state and federal authorities for the project.

5. **Inspection:** All work shall be subject to inspection, surveillance, and test by the City at reasonable times during the performance. The Contractor shall provide and maintain an inspection system which is acceptable to the City.

6. **Investigation of Conditions:** The Contractor warrants and agrees familiarity of the work that is required, is satisfied as to the conditions under which is performed and enters into this contract based upon the Contractor's own investigation.

7. **Compensation:** Compensation for services shall be based upon fees negotiated, including all approved costs and expenses incurred in connection with the project; including but not limited to, telephone and other communications, reproduction of documents, special consultants (as approved by the City) and computer costs.

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

9. **Insurance Cancellation and Expiration Notice:** Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the City.

10. **Independent Contractor:**

a. General

i. The Contractor acknowledges that all services provided under this Agreement are being provided by him as an independent contractor, not as an employee or agent of the City Manager or the City of Peoria.

ii. Both parties agree that this Agreement is nonexclusive and that Contractor is not prohibited from entering into other contracts nor prohibited from practicing his profession elsewhere.

b. Liability

i. The City of Peoria shall not be liable for any acts of Contractor outside the scope of authority granted under this Agreement or as the result of Contractor's acts, errors, misconduct, negligence, omissions and intentional acts.

ii. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

c. Other Benefits

The Contractor is an independent contractor, therefore, the City Manager will not provide the Contractor with health insurance, life insurance, workmen's compensation, sick leave, vacation leave, or any other fringe benefits. Further, Contractor acknowledges that he is exempt from coverage of the Comprehensive Benefit and Retirement Act (COBRA). Any such fringe benefits shall be the sole responsibility of Contractor.

11. **Confidentiality of Records:** The contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that information contained in its records or obtained from the City or from others in carrying out its functions under the

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

12. **Ordering Process:** Upon award of a contract by the City of Peoria, Materials Management Division may procure the specific material and/or service awarded by the issuance of a purchase order to the appropriate contractor. The award of a contract shall be in accordance with the City of Peoria Procurement Code and all transactions and procedures required by the Code for public bidding have been complied with. A purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the department to order and the contractor to delivery the material and/or service.

    Any attempt to represent any material and/or service not specifically awarded as being under contract with the City of Peoria is a violation of the contract and the City of Peoria Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.

13. **Billing:** All billing notices to the City shall identify the specific item(s) being billed and the purchase order number. Items are to be identified by the name, model number, and/or serial number most applicable. Any purchase/delivery order issued by the requesting agency shall refer to the contract number resulting from this solicitation.

14. **Licenses:** Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

15. **Cancellation:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. The City will issue written notice to the contractor for acting or failing to act as in any of the following:

    a. The contractor provides material that does not meet the specifications of the contract;

    b. The contractor fails to adequately perform the services set forth in the specifications of the contract;

    c. The contractor fails to complete the work required or to furnish the materials required within the time stipulated in the contract;

    d. The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.

    Upon receipt of the written notice of concern, the contractor shall have ten (10) days to

provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies:

e. Cancel any contract;

f. Reserve all rights or claims to damage for breach of any covenants of the contract;

g. Perform any test or analysis on materials for compliance with the specifications of the contract. If the results of any test or analysis find a material non-compliant with the specifications, the actual expense of testing shall be borne by the contractor;

h. In case of default, the City reserves the right to purchase materials, or to complete the required work in accordance with the City Procurement Code. The City may recover any actual excess costs from the contractor by:

   i. Deduction from an unpaid balance;

   ii. Collection against the bid and/or performance bond, or;

   iii. Any combination of the above or any other remedies as provided by law.

IN WITNESS WHEREOF, WMA and the City have executed this Agreement as of the Effective Date written above.

Date Awarded: _____

WMA

By: _____

Its: _____

Date: _____

Address for Notice:
Waste Management
1580 E. Elwood
Phoenix, AZ 85040

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Carl Swenson
Its: ____City Manager_____

Date: _____

Address for Notice:
City of Peoria
8401 West Monroe
Peoria, AZ 85345

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

ATTESTED BY:

_____
Wanda Nelson, City Clerk

EXHIBIT A

SINGLE STREAM SPECIFICATIONS

City shall deliver Commingled Recyclables, consisting of recyclable aluminum, cans, plastics, and paper:

Materials Accepted: Aluminum food and beverage containers
Ferrous (Iron) cans
Glass food and beverage containers – brown, clear, or green
PET plastic containers with the symbol #1 – narrow neck containers only
HDPE natural plastic containers with the symbol #2 – narrow neck containers only (milk and water bottles)
HDPE pigmented plastic containers with the symbol #2 – narrow neck containers only (detergent, shampoo, bleach bottles, etc. without caps)
Plastics with symbols #1- #7-narrow and screw top containers
Newsprint
Old corrugated cardboard
Magazines
Catalogs
Cereal boxes
Telephone books
Printer paper
Copier paper
Mail
All other office paper without wax liners

- All tin cans, bi-metal cans, and aluminum cans must be empty and contain less than 5% food debris.
- All aerosol cans must be empty with less than 5% content
- All plastic containers must be empty, caps removed; less than 5% food debris.
- All fiber must be dry and free of food debris and other contaminating material. Tissues, paper towels or other paper that has been in contact with food is not acceptable.

Materials Not Accepted: All materials not set forth are unacceptable ("Unacceptable Marterials"), including but not limited to:
Microwave trays
Mirrors
Window or auto glass
Light Bulbs
Ceramics
Porcelain
Plastics unnumbered

Plastic bags and other film plastic
Coat hangers
Glass cookware/bakeware
Household items such as cooking pots, toasters, etc.
Green Waste -tree branches / yard clippings
Automotive parts - batteries
Diapers
Large Bulk Metal Items
Garden Hoses

REQUEST FOR SINGLE SOURCE

Return to: Materials Management

MATERIALS MANAGEMENT
Procurement
8314 W Cinnabar Avenue
Peoria, Arizona 85345-6560

Telephone: (623) 773-7115
Fax: (623) 773-7118

Date: 3/5/12 From: Maher Hazine

Single Source Request for the Purchase of: Solid Waste Disposal

Requested Supplier: Waste Managment Phone: 602 763 9226

Supplier's Address: 2425 S. 48th St. Fax: 602 470 0692

Phoenix AZ 85034 Funding Source: 2760 525301

Contact: Brandon Esquer Est. Expenditure: $ depends on contract option

Statement of Need:

The department's recommendation for single source is based upon an objective review of the product/service being required and appears to be in the best interest of the City. I am aware of no conflict of interest or compromising action. Personal familiarity with particular brands, types of equipment, materials or firms has not influenced the request to single source this purchase. **Refer to the attached single source justification as prepared by our department and to the attached review of available products/services.**

[redacted] 3-5-2012

Signature of Requesting Division Manager Date

for [redacted] 03-05-2012

Approval of Department Director Date

Materials Management Comments:

Materials Management Approvals:

Tom Zenko 3-5-12

Material Manager Date

City Manager Date

Single Sourcing:

All Single Source requests shall contain the following information:

1. Full explanation of the product or service required.
2. A full explanation of the existence of a single source condition which explains the rational for noncompetitive procurement.
3. A detailed summary of efforts made to locate other potential sources, methods to locate them, and the reasons for selection or rejection of each potential source.

Examples of a single source procurement would be:

1. Immediate or past experience with a supplier which could impact price or quality.
2. Critical delivery schedule.
3. Current contractual involvement.

Please note, a single source procurement is not a vehicle to circumvent competition in the market place nor should it be used as a result of poor planning, a desire to not write specifications, or end of year budget expiration. Single Source procurement should be utilized with extreme caution to avoid problems such as failure to recognize the true market value of the product or service, motivation of the supplier to perform quality work, lack of backup supplier in the event of nonperformance, and lack of negotiation leverage. The positives should outweigh the negatives.

Please submit single source request in advance to allow sufficient time for review and negotiation of a contract (if needed).

Request for Single Source

Public Works – Utilities Division, Solid Waste
March 05, 2012

1) *Explanation of the product or service required.*
Disposal of Solid Waste for the City of Peoria is necessary as the City does not own nor operate a transfer station or landfill. Solid Waste must be disposed of at a facility which is permitted to accept and handle the collected waste. Peoria generated slightly more than 64,000 tons of waste (recycling and trash) in Fiscal Year 2011.

2) *Explanation of the existence of a single source condition which explains the rational for non-competitive procurement.*
Solid waste disposal options are limited by adjacency to landfill sites and distances traveled. For the City of Peoria there are several landfills owned by other municipalities which we are utilizing under IGA's at this time for some of our solid waste disposal and material recycling needs when it is advantageous to do so. The bulk of the city's solid waste is disposed of utilizing a contract with Waste Management. The only other service provider in the area is further away and has not expressed any interest in providing services under the current City of Peoria business model. Waste Management has built a solid foundation for accepting and handling Peoria's wastes. Exceptional working partnership has resulted in enhanced services to include accepting special waste (solids) at the Deer Valley Transfer Station and the Northwest Regional Land Fill. This allows for an efficient operational management of our collection routing resulting in reduced the travel time. Waste Management works with the City to accept delivery on holidays and to accept special waste an hour earlier for optimal delivery.

3) *Summary of efforts made to locate other potential sources, methods to locate them, and the reason for selection or rejection.*
The City of Peoria has entered into IGA's with the City of Phoenix for the sale of recycled waste and also with the City of Glendale for the use of their landfill for the disposal of approximately 10 percent of the City of Peoria's residential solid waste and special waste (Solids) from our Water Treatment Facilities at the City's discretion. The City of Glendale IGA agreement is to primarily dispose of the last load of the day so that operators will be closer to base during high volume traffic time. Contact was made with the only other firm that offers disposal services in this area and they chose not to provide information that was reflective of services being done under our current business model. Additional disposal options exist but are not prudent, nor cost effective to the City mainly due to disposal commute distance.

Landfill Tipping Fee and Recycling Revenue Summary

December 20, 2011

Recycling Program Revenues

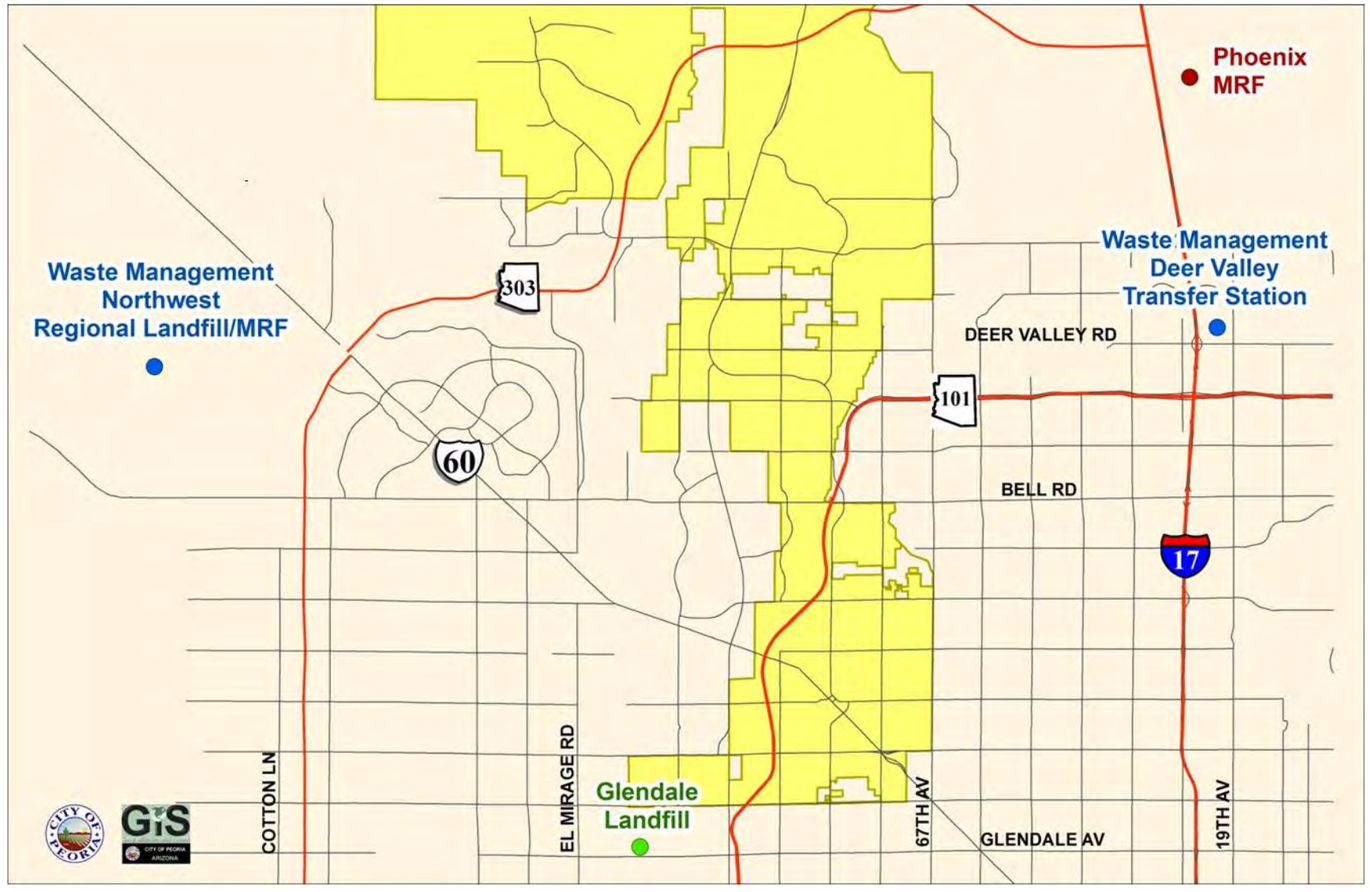
	Current Revenue			Proposed Revenue			Changes in Revenue	
	FY 2011 Tons	$/ Ton	Recycling Revenue	Estimated Tons	$/ Ton	Recycling Revenue		
Waste Management	N/A	N/A	$0	10,000	$56.00	$560,000	**$560,000**	
Phoenix	16,628	$31.67	$526,618	6,628	$50.00	$331,414	**($195,204)**	
Glendale	N/A	N/A	$0	N/A	0.00	N/A	**N/A**	
Total	**16,628**		**$526,618**	**16,628**		**$891,414**	**$364,796**	Additional revenue

Landfill Program Fees

	Current Fees			Proposed Fees			Changes in Fees	
	FY 2011 Tons	$/ Ton	Tipping Fee	Estimated Tons	$/ Ton	Tipping Fee		
Waste Management	68,545	$22.31	-$1,529,244	63,745	$22.31	($1,422,156)	**$107,088**	
Phoenix	N/A	N/A	$0	N/A	N/A	N/A	N/A	
Glendale	N/A	N/A	$0	4,800	$25.00	($120,000)	**($120,000)**	
Total	**68,545**		**($1,529,244)**	**68,545**		**($1,542,156)**	**($12,912)**	Direct Cost Increase[6]
						Net Change in Program costs	**$351,884**	Additional revenue

NOTES:

1. Phoenix Recycling rate is a blended rate which varies monthly
2. Waste Management Tipping Fee is $18.39 at the Northwest Regional Landfill
3. Waste Management Tipping Fee is $23.06 at the Deer Valley Transfer Station
4. Waste Management has a $1.22 Fuel surcharge for Deer Valley Transfer Station
5. Glendale's Recycling Facility does not accept glass
6. Direct Costs only reflect costs related to Landfill fees. Additional savings will be relaized due reduced operational costs


Phoenix
MRF
Waste Management
Northwest
Regional Landfill/MRF
Waste Management
Deer Valley
Transfer Station
303
DEER VALLEY RD
101
60
BELL RD
17
COTTON LN
EL MIRAGE RD
Glendale
Landfill
67TH AV
GLENDALE AV
19TH AV
GIS

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 13R

Date Prepared: February 24, 2012 **Council Meeting Date: March 20, 2012**

TO: Honorable Mayor and Council

FROM: Stephen M. Kemp, City Attorney

SUBJECT: Charter Amendment-Succession to the Office of Mayor

Purpose:

This is a request for City Council to consider placing a proposed amendment to the Peoria City Charter on the August 2012 Regular Election Ballot for succession to the office of mayor.

Background/Summary:

In September 2011, this office inquired of all Council members regarding suggestions that they had for charter changes. A total of fourteen (14) suggestions were submitted. Subsequently, two (2) suggestions were withdrawn. This office created draft language on what the suggested amendments might address. This is the same process which has been used since 1990. The suggested amendments were then submitted to the Policy and Appointments Subcommittee of the City Council, which reviewed all suggestions and directed that all suggestions be submitted to the Council at the February 21, 2012 Study Session. The Council's consensus was for the City Attorney to prepare a charter amendment for its consideration and submission to the voters to provide that Council would elect the successor to the position of mayor in the event of a vacancy, until a special election could be held. In the proposed amendment specific language is also included to address the issue should Council fail to select a successor. The charter implies the vice-mayor would preside over the Council as vice-mayor until the special election is held. The amendment expressly states this.

Previous Actions:

This matter was discussed at a City Council Study Session on February 21, 2012. The Council's consensus was to proceed with a resolution for its consideration. Previously in December, 2011, this amendment was discussed before the Council Policy and Appointments Subcommittee.

Options:

A: Act on the resolution as submitted
B: Direct staff to make such changes as Council determines to be appropriate

C: Take no action on the proposed Charter Amendment

Staff's Recommendation:

If the Council desires to proceed with the proposed charter amendment modifying the process for succession to the position of mayor in the event of a vacancy, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing proposed charter amendment as to the succession to the office of mayor on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-33

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA **PROPOSING AN AMENDMENT TO THE CITY OF PEORIA, ARIZONA, CITY CHARTER, AMENDING ARTICLE II, SECTION 13 PERTAINING TO VACANCIES IN THE OFFICE OF MAYOR AND COUNCIL.**

TEXT OF PROPOSED AMENDMENT

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. The following amendment of Article II, Section 13 is proposed to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Mayor after completion of the official canvass in accordance with Article X, Section 2 of the Peoria City Charter.

SECTION 2. The Charter of the City of Peoria, Arizona is amended by amending Article II, Section 13 to read as follows:

Sec. 13. Vacancies in the office of mayor and council.

A. ~~In case of a vacancy~~ <u>If a vacancy occurs</u> in the office of the mayor <u>prior to the next regular election for the position of mayor, there shall be a special election held to fill the unexpired portion of the term. For purposes of this section, the next regular election is deemed to be the primary election</u>. ~~the vice-mayor, should they be otherwise qualified, shall become mayor and continue in office until the expiration of the unexpired term. Should the vice-mayor not be qualified because of age to assume the office of mayor, the council shall choose a mayor who is qualified from among its membership~~. Should no member of the council be qualified by age, a mayor shall be chosen to fill the unexpired term by special election. Upon taking the oath of office for the position of mayor, the seat of the council position held by the vice-mayor or council member shall be deemed to be vacant. <u>The vacancy and special election shall be held subject to the following provisions</u>:

(1) Within three (3) business days, the council shall convene and select a member of the council to serve as mayor until a special election can be held. The selection shall be done by nomination and vote of the council with the candidate receiving the most votes deemed elected. The member who is elected shall succeed to the position of mayor until the date of the canvass of the special election at which time the candidate elected as mayor shall fill the remainder of the unexpired term of office.

(2) The procedures for nomination and election shall be the same as for regular elections for the position of Mayor to the extent possible.

(3) In the event the council fails to select a member to serve as mayor, the vice mayor shall preside over the council until the mayor is selected.

B. If a vacancy occurs seven hundred and forty (740) days or more prior to the next regular election for the vacant position, there shall be a special election held to fill the unexpired portion of the term. For purposes of this Section, the next regular election is deemed to be the primary election. The special election shall be held subject to the following provisions:

(1) There shall be a period of ten (10) days from the date the vacancy occurs during which any person desiring to run for the vacant office must declare as a candidate for the office by filing a written statement declaring their intention to be a candidate with the city clerk.

(2) Upon expiration of the ten day period in subsection B. (1), the city clerk shall schedule a special election on the first available election date permitted by state law and this charter.

(3) The procedures for nomination and election shall be the same as for regular council elections to the extent possible.

(4) The council shall not less than twelve (12) days nor more than fifteen (15) days from the date any vacancy occurs appoint in the manner provided in paragraph C of this section, a person to fill the vacant office for a term ending the first business day after the canvass of votes is completed following the election of a candidate to fill the unexpired term of office.

C. In the case of a vacancy on the council which occurs less than seven hundred and forty (740) days prior to the next regular election for a council member from the district in which the vacancy occurred, the vacancy shall be filled as follows:

(1) A vacancy shall be filled by a qualified elector residing in the district in which the vacancy exists.

(2) The first candidate receiving an affirmative majority of the votes of the mayor and council members present shall be selected to fill the vacancy. If more than two candidates are nominated and no candidate receives a majority of the votes of mayor and council members present, then a second ballot shall be held and the two candidates having received the most votes deemed nominated and voted on by the mayor and council members present.

(3) The appointment shall be until their successor at the next regular election shall be elected and qualified.

D. If a vacancy in the office of council occurs after the canvass of a primary election or general election in which a candidate has been elected for the seat that has become vacant, the person elected for such vacant seat shall be deemed to be appointed for the remainder of the term of the seat that has become vacant upon taking the oath of office. If no person has been elected at the primary election, the council may elect to leave the seat vacant until the canvass of the general election and then the seat shall be filled in accordance with this paragraph.

E. A vacancy in the office of mayor or the council shall exist, except under the recall provisions of this charter, when the respective elected official fails to qualify within thirty (30) days after commencement of his term, dies, resigns, removes from the city, absents himself from the duties of his office without the consent of the council as provided in the charter, is convicted of intentionally violating any of the provisions of this charter, or of a felony, or is judicially declared an incapacitated person as defined by statute.

SECTION 3. The proposed amendment approved by the Mayor and a majority of the members of the City Council and entered into the minutes shall be submitted by the Peoria City Clerk to the qualified electors of the City at the August 28, 2012 regular election as provided by Article X, Section 2 of the Peoria City Charter.

SECTION 4. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,

Arizona this 20th day of March, 2012, as follows:

Ayes: _____ Nays: _____
_____ _____
_____ _____
_____ _____
_____ _____

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 14R

Date Prepared: February 24, 2012 **Council Meeting Date: March 20, 2012**

TO: Honorable Mayor and Council

FROM: Stephen M. Kemp, City Attorney

SUBJECT: Charter Amendment-Rotation of Office of Vice-Mayor

Purpose:

This is a request for City Council to consider placing a proposed amendment to the Peoria City Charter on the August 2012 Regular Election Ballot for rotation of the office of vice-mayor.

Background/Summary:

In September 2011, this office inquired of all Council members regarding suggestions that they had for charter changes. A total of fourteen (14) suggestions were submitted. Subsequently, two (2) suggestions were withdrawn. This office created draft language on what the suggested amendments might address. This is the same process which has been used since 1990. The suggested amendments were then submitted to the Policy and Appointments Subcommittee of the City Council, which reviewed all suggestions and directed that all suggestions be submitted to the Council at the February 21, 2012 Study Session. The Council's consensus was for the City Attorney to prepare a charter amendment for its consideration and submission to the voters to provide that the office of vice-mayor would be rotated among the members of Council. Once concept provided for selection by lot and the other concept provided for rotation in alphabetical order of Council Districts. At the Council Study Session there was a consensus for staff to bring back a proposed amendment for rotation of the office of vice-mayor by alphabetical order of Council Districts.

Previous Actions:

This matter was discussed at a City Council Study Session on February 21, 2012. The Council's consensus was to proceed with a resolution for its consideration. Previously in December, 2011, this amendment was discussed before the Council Policy and Appointments Subcommittee.

Options:

A: Act on the resolution as submitted
B: Direct staff to make such changes as Council determines to be appropriate

C: Take no action on the proposed Charter Amendment

Staff's Recommendation:

If the Council desires to proceed with the proposed charter amendment providing for the rotation of the office of vice-mayor by alphabetical order of Council Districts, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing proposed charter amendment as to the rotation of the office of vice-mayor on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-34

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA **PROPOSING AN AMENDMENT TO THE CITY OF PEORIA, ARIZONA, CITY CHARTER, AMENDING ARTICLE II, SECTION 8 PERTAINING TO VICE-MAYOR AND AMENDING ARTICLE II, SECTION 11 PERTAINING TO INDUCTION OF MAYOR AND COUNCIL INTO OFFICE.**

TEXT OF PROPOSED AMENDMENT

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. The following amendment of Article II, Section 8 is proposed to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Mayor after completion of the official canvass in accordance with Article X, Section 2 of the Peoria City Charter.

SECTION 2. The Charter of the City of Peoria, Arizona is amended by amending Article II, Section 8 to read as follows:

Sec. 8. ~~Vice-mayor~~ Vice-Mayor.

A. The ~~council shall designate one of its members as vice-mayor~~ Vice-Mayor~~, who~~ shall serve in such capacity at the pleasure of the ~~c~~ Council. The ~~vice-mayor~~ Vice-Mayor shall perform the duties of the mayor during his absence or disability.

B Commencing on the first scheduled meeting of the Council in 2013, there shall be a Vice-Mayor selected based on the Alphabetical Order of the names of Council Districts, commencing with the letter “A”. Each Vice-Mayor shall serve a term of one year. In the event that a Council member declines to serve as Vice-Mayor, the rotation shall proceed to the name of the next district in Alphabetical Order. In the event the position of Vice-Mayor becomes vacant, the Council member of the District next in the Alphabetical Order

of Rotation shall complete the remainder of the vacant term together with the next full

term. Notwithstanding the foregoing, if a Council member is in their first year of their first term of office, they shall be skipped and the rotation proceed to the next Council member in the order of rotation. After the next Council member has completed their term of Vice-Mayor, the Council member skipped shall serve a term as Vice-Mayor after which time, the rotation shall return to the original schedule.

SECTION 3. The Charter of the City of Peoria, Arizona is amended by amending Article II, Section 11 to read as follows:

Sec. 11. Induction of mayor and council into office.

A. The council shall on the first scheduled meeting in the first month of the new year following the year in which a regularly scheduled election for the mayor and/or council was held, induct the newly elected mayor and council members ~~and to elect a vice mayor~~ and to organize the council as may be provided by ordinance.

B. In the case of a council member elected at a special election, the council member shall file the oath of taking office with the city clerk not less than 24 hours prior to the meeting where the adoption of the canvass shall occur and may be inducted immediately thereafter.

C. This change shall become effective for regular elections for mayor and council members from and after December 31, 2003.

Section 4. The proposed amendment approved by the Mayor and a majority of the members of the City Council and entered into the minutes shall be submitted by the Peoria City Clerk to the qualified electors of the City at the August 28, 2012 regular election as provided by Article X, Section 2 of the Peoria City Charter.

Section 5. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona this 20th day of March, 2012, as follows:

Ayes:	Nays:
_____	_____
_____	_____
_____	_____
_____	_____

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 15R

Date Prepared: February 24, 2012 **Council Meeting Date: March 20, 2012**

TO: Honorable Mayor and Council

FROM: Stephen M. Kemp, City Attorney

SUBJECT: Charter Amendment-Placing City Clerk Position Under City Council

---

Purpose:

This is a request for City Council to consider placing a proposed amendment to the Peoria City Charter on the August 2012 Regular Election Ballot providing for the Council to appoint and evaluate the City Clerk.

Background/Summary:

In September 2011, this office inquired of all council members regarding suggestions that they had for charter changes. A total of fourteen (14) suggestions were submitted. Subsequently, two (2) suggestions were withdrawn. This office created draft language on what the suggested amendments might address. This is the same process which has been used since 1990. The suggested amendments were then submitted to the Policy and Appointments Subcommittee of the City Council, which reviewed all suggestions and directed that all suggestions be submitted to the Council at the February 21, 2012 Study Session. The Council's consensus was for the City Attorney to prepare a charter amendment for its consideration and submission to the voters to provide that Council would appoint and evaluate the City Clerk.

Previous Actions:

This matter was discussed at a City Council Study Session on February 21, 2012. The Council's consensus was to proceed with a resolution for its consideration. Previously in December, 2011, this amendment was discussed before the Council Policy and Appointments Subcommittee.

Options:

A: Act on the resolution as submitted

B: Direct staff to make such changes as Council determines to be appropriate

C: Take no action on the proposed Charter Amendment

Staff's Recommendation:

If the Council desires to proceed with the proposed charter amendment providing for the City Clerk to be appointed by and evaluated by the Council, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing proposed charter amendment for the Council to appoint and evaluate the City Clerk on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-35

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA **PROPOSING AN AMENDMENT TO THE CITY OF PEORIA, ARIZONA, CITY CHARTER, AMENDING ARTICLE IV, SECTION 2 PERTAINING TO CITY CLERK.**

TEXT OF PROPOSED AMENDMENT

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. The following amendment of Article IV, Section 2 is proposed to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Mayor after completion of the official canvass in accordance with Article X, Section 2 of the Peoria City Charter.

SECTION 2. The Charter of the City of Peoria, Arizona is amended by amending Article IV Section 2 to read as follows:

Sec. 2. City Clerk.

A. The City Council shall provide by ordinance for the department of the City Clerk, and establish the powers and duties therefore.

B. The City Council shall appoint a City Clerk and fix their compensation in the manner established for other employees of the City. The City Clerk shall work in cooperation with other officers appointed by the Council and departments under their supervision. The City Clerk shall serve at the pleasure of the Council.

~~B~~C. The Mayor and Council members may individually confer with the City Clerk.

D. The Council shall adopt by ordinance a process for evaluation of the City Clerk not less than annually and on or before December 31 of each year. The evaluation shall be done pursuant to a process adopted by ordinance of the Council. Notwithstanding any other provision of this charter or law, the ordinance and any amendments thereto adopting the process for the evaluation of the City Clerk shall not be adopted as an emergency item.

SECTION 3. The proposed amendment approved by the Mayor and a majority of the members of the City Council and entered into the minutes shall be submitted by the Peoria City Clerk to the qualified electors of the City at the August 28, 2012 regular election as provided by Article X, Section 2 of the Peoria City Charter.

SECTION 4. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona this 20th day of March, 2012, as follows:

Ayes _____ Nays: _____
_____ _____
_____ _____
_____ _____
_____ _____

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

Published in Peoria Times
Publication Dates: _____
Effective Dates: _____

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 16R

Date Prepared: March 2, 2012 **Council Meeting Date: March 20, 2012**

TO: Honorable Mayor and Council

FROM: Stephen M. Kemp, City Attorney

SUBJECT: Charter Amendment-Interference in Administrative Service

---

Purpose:

This is a request for City Council to consider placing a proposed amendment to the Peoria City Charter on the August 2012 Regular Election Ballot pertaining to interference in administrative service.

Background/Summary:

In September 2011, this office inquired of all Council members regarding suggestions that they had for charter changes. A total of fourteen (14) suggestions were submitted. Subsequently, two (2) suggestions were withdrawn. This office created draft language on what the suggested amendments might address. This is the same process which has been used since 1990. The suggested amendments were then submitted to the Policy and Appointments Subcommittee of the City Council, which reviewed all suggestions and directed that all suggestions be submitted to the Council at the February 21, 2012 Study Session. The Council's consensus was for the City Attorney to prepare a charter amendment for its consideration and submission to the voters pertaining to interference in the administrative service by the Council pertaining to appointment and removal of employees.

Previous Actions:

This matter was discussed at a City Council Study Session on February 21, 2012. The Council's consensus was to proceed with a resolution for its consideration. Previously in December, 2011, this amendment was discussed before the Council Policy and Appointments Subcommittee.

Options:

A: Act on the resolution as submitted

B: Direct staff to make such changes as Council determines to be appropriate

C: Take no action on the proposed Charter Amendment

Staff's Recommendation:

If the Council desires to proceed with the proposed charter amendment pertaining to interference with the administrative service, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing proposed charter amendment as to interference in administrative service on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-36

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA **PROPOSING AN AMENDMENT TO THE CITY OF PEORIA, ARIZONA, CITY CHARTER, AMENDING ARTICLE II, SECTION 20 PERTAINING TO INTERFERENCE IN ADMINISTRATIVE SERVICE.**

TEXT OF PROPOSED AMENDMENT

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows

SECTION 1. The following amendment of Article II, Section 20 is proposed to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Mayor after completion of the official canvass in accordance with Article X, Section 2 of the Peoria City Charter.

SECTION 2. The Charter of the City of Peoria, Arizona is amended by amending Article II Section 20 to read as follows:

Sec. 20. Interference in administrative service.

A. Except as otherwise provided in this charter, neither the mayor nor any councilmember shall interfere with the execution by the city manager of his powers and duties, or order, directly or indirectly, the appointment by the city manager of any person to an office or employment or his removal therefrom. Except for purposes of inquiry, the mayor and councilmembers shall deal with the administrative service under the city manager solely through the city manager, and neither the mayor nor councilmember shall give orders to any subordinate of the city manager, either publicly or privately.

B. Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the city manager anything pertaining to city affairs or the interest of the city.

C. Nothing in this section shall be construed to preclude the council from expressing its view and fully and freely discuss with the city manager anything pertaining to the appointment and removal of any employee.

SECTION 3. The proposed amendment approved by the Mayor and a majority of the members of the City Council and entered into the minutes shall be submitted by the Peoria City Clerk to the qualified electors of the City at the August 28, 2012 regular election as provided by Article X, Section 2 of the Peoria City Charter.

SECTION 4. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona this 20th day of March, 2012, as follows:

Ayes: _____ Nays: _____

_____ _____

_____ _____

_____ _____

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

Published in Peoria Times
Publication Dates: _____
Effective Dates: _____

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

Agenda Item: 17R

Date Prepared: March 2, 2012 **Council Meeting Date: March 20, 2012**

TO: Honorable Mayor and Council

FROM: Stephen M. Kemp , City Attorney

SUBJECT: Charter Amendment-Ordinances, prohibition on super majority to amend or repeal

---

Purpose:

This is a request for City Council to consider placing a proposed amendment to the Peoria City Charter on the August 2012 Regular Election Ballot pertaining to ordinances, prohibition on super majority to amend or repeal.

Background/Summary:

In September 2011, this office inquired of all Council members regarding suggestions that they had for charter changes. A total of fourteen (14) suggestions were submitted. Subsequently, two (2) suggestions were withdrawn. This office created draft language on what the suggested amendments might address. This is the same process which has been used since 1990. The suggested amendments were then submitted to the Policy and Appointments Subcommittee of the City Council, which reviewed all suggestions and directed that all suggestions be submitted to the Council at the February 21, 2012 Study Session. The Council's consensus was for the City Attorney to prepare a charter amendment for its consideration and submission to the voters pertaining to ordinances, prohibition on super majority to amend or repeal.

Previous Actions:

This matter was discussed at a City Council Study Session on February 21, 2012. The Council's consensus was to proceed with a resolution for its consideration. Previously in December, 2011, this amendment was discussed before the Council Policy and Appointments Subcommittee.

Options:

A: Act on the resolution as submitted
B: Direct staff to make such changes as Council determines to be appropriate
C: Take no action on the proposed Charter Amendment

Staff's Recommendation:

If the Council desires to proceed with the proposed charter amendment pertaining to ordinances, prohibition on super majority to amend or repeal, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing proposed charter amendment as to ordinances, prohibition on super majority to amend or repeal on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-37

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA **PROPOSING AN AMENDMENT TO THE CITY OF PEORIA, ARIZONA, CITY CHARTER, AMENDING ARTICLE VII, SECTION 12 PERTAINING TO REPEALING OR SUSPENDING ORDINANCES.**

TEXT OF PROPOSED AMENDMENT

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. The following amendment of Article VII, Section 12 is proposed to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Mayor after completion of the official canvass in accordance with Article X, Section 2 of the Peoria City Charter.

SECTION 2. The Charter of the City of Peoria, Arizona is amended by amending Article VII Section 12 to read as follows:

Sec. 12. Repealing or suspending ordinances.

A. No ordinance or section thereof shall be repealed or suspended except by ordinance adopted in the manner provided in this charter.

B. No ordinance or section thereof shall be enacted by the Council that would require more than a majority of the members of the Council to amend, repeal or suspend the provisions of such ordinance. Any such ordinance or section previously adopted shall not require more than a majority of the members of the Council to amend, repeal or suspend the provision of the ordinance.

SECTION 3. The proposed amendment approved by the Mayor and a majority of the members of the City Council and entered into the minutes shall be submitted by the Peoria City Clerk to the qualified electors of the City at the August 28, 2012 regular election as provided by Article X, Section 2 of the Peoria City Charter.

SECTION 4. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona this 20th day of March, 2012, as follows:

Ayes:	Nays:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

_____
Bob Barrett, Mayor

ATTEST:

_____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

City Council Calendar

Color Key:
City Council

< February	March 2012					April >
Sunday	**Monday**	**Tuesday**	**Wednesday**	**Thursday**	**Friday**	**Saturday**
				1	2	3
4	5	6 Regular City Council Meeting Special City Council Meeting & Study Session	7	8	9	10
11	12	13	14 Public Safety Council Subcommittee Meeting **CANCELLED**	15 Special Meeting and Study Session City Council Subcommittee on Policy & Appointments	16	17
18	19 City Council Subcommittee on Community Culture	20 Regular City Council Meeting Special City Council Meeting & Study Session	21	22	23	24
25	26 Budget Study Session	27	28	29	30 Budget Study Session	31

City Council Calendar

Color Key:
City Council

< March	April 2012					May >
Sunday	**Monday**	**Tuesday**	**Wednesday**	**Thursday**	**Friday**	**Saturday**
1	2 Budget Study Session	3 Regular City Council Meeting Special City Council Meeting & Study Session	4	5	6	7
8	9 City Council Subcommittee on Community Culture	10 City Council Subcommittee on Policy & Appointments	11	12	13	14
15	16	17 Regular City Council Meeting Special City Council Meeting & Study Session	18	19	20	21
22	23	24	25	26	27	28
29	30					

CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT

RCM: 2a

Date Prepared: March 13, 2012 **Council Meeting Date:** March 20, 2012

TO: Carl Swenson, City Manager

FROM: William Mattingly, Public Works – Utilities Director

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: AMWUA One for Water Four-Miler Race and Family Fun Festival
Water Conservation Event

Summary:

On Saturday, March 10, the City of Peoria and the Arizona Municipal Water Users Association (AMWUA) presented the second annual One for Water Four-Miler Race and Family Fun Festival at Rio Vista Community Park. The event theme was "Join the Chase" to catch water leaks. The race and festival comprised the kickoff event for Fix-A-Leak Week, part of EPA's WaterSense program. Peoria Mayor Bob Barrett, AMWUA Board President, participated in the race and addressed the crowd afterward.

Some 117 runners and walkers competed in the race at Rio Vista Community Park. The event was timed, and contestants took from as little as 23 minutes to over an hour to complete the four mile course. Leading the racers was a contestant in a toilet costume, symbolizing the chase after leaks that is the main message of the Fix-A-Leak campaign. Several organizations fielded teams, including the City of Peoria.

The race amongst the various water conservation mascots was a big hit. The City of Peoria water drop mascot, "Misty," was the winning character. Some 12 exhibitors had booths at the Family Fun Fair, including SRP, CAP, the Bureau of Reclamation, University of Arizona Extension Service, the Green Plumber, Ewing Irrigation, Water Use It Wisely and others. The City of Peoria had two booths. Exhibits were geared towards finding and fixing water leaks.

This event was designed to increase public awareness of household leaks, which can waste up to 14% of all water lost in a household. Because leaking toilet flappers are one of the biggest culprits, a running toilet was the mascot and principle graphic used to illustrate this water-saving technique. Fixing leaks is an efficient way to conserve water.

Participation in public events such as the Four-Miler Race and Fun Festival is one way in which the City's Water Conservation Program reaches out to our residents to educate them in water conservation techniques. Cities in Georgia, Colorado, and Utah have contacted AMWUA to learn more about the event so that they too can organize similar events.

Exhibits:

Exhibit 1: Event Photo

Exhibit 2: List of City participants

Contact Name and Number: Alan Dulaney, Water Resources Supervisor, 773-7357

ONE FOR WATER
4-MILER
RACE
START / FINISH

Peoria Race Team

	Result	
Robin Bain		
Doug Bain	3rd place age division	husband to Robin Bain
Fernando Icedo		
Lacey Paccione	3rd place age division	
Leisha Williams		
Anthony Alejandro	2nd place age division	
Linda Bezy-Botma		
Jose Castillo		
Bryce Christo		husband to Claudia Christo
Susan Thorpe		
Laurie Castillo		
Bob Barrett		
Rachelle Barrett		
Brian Biesemeyer	3rd place age division	
Art Lomeli		
Lupe Lomeli		

List of City staff and departments who helped organize/staff the event

Andy Lombardo, Utilities
Alan Dulaney, Utilities
Lacey Paccione, Utilities
Amy Baker, Utilities
Jason Poage, Utilities
Marc Brust, Recreation
Jeff Crane, Recreation
Heather Duffet, Rio Vista Recreation Center
Jeremy Reed, Fire Department

CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT

RCM: 2b

Date Prepared: March 7, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Andrew Granger, P. E., Engineering Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Lone Mountain Parkway Extension

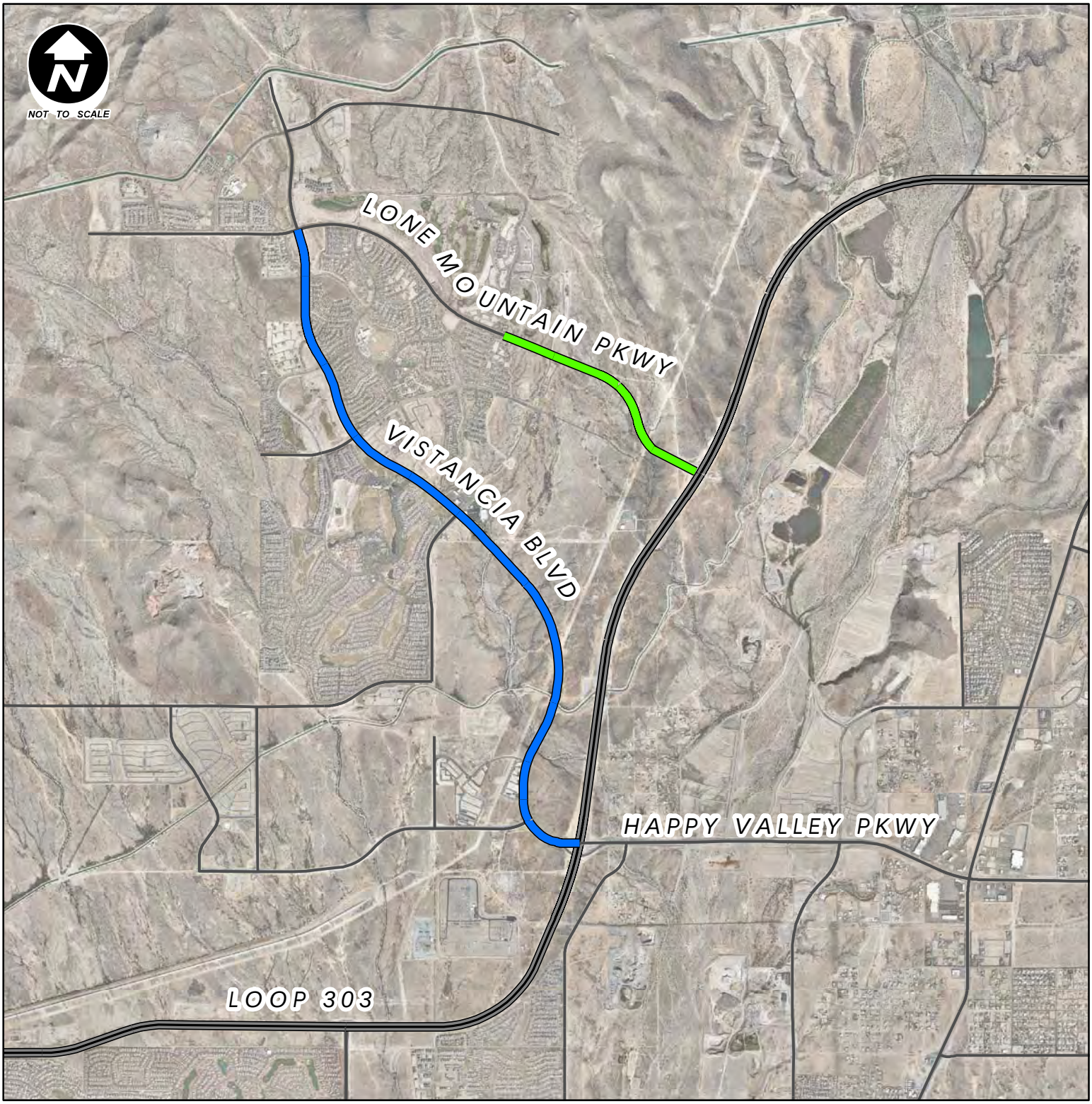
Summary:

Earlier this month, the segment of Lone Mountain Parkway between El Mirage Road and State Route 303L (Loop 303) opened. This latest segment provides a much needed and highly anticipated secondary access to Vistancia. Lone Mountain Parkway is now a continuous two-lane divided roadway from Vistancia Boulevard to the Loop 303. The new segment provides a continuation of the landscape theme matching the previously constructed segment to the west and was designed with future expansion in mind.

As a requirement of the Vistancia development agreement, this segment of Lone Mountain Parkway was designed, constructed and paid for exclusively by the developer, Sunbelt Holdings. There were zero upfront costs to the City of Peoria. In addition to providing a secondary access to the residents of Vistancia, this new roadway provides significant opportunities for economic development in this key region of the city.

Exhibit:
Exhibit 1: Location Map

Contact Name and Number: Andrew Granger, x7215



LEGEND

Current Access

New Access

City of Peoria
Lone Mountain
Parkway Extension
Blackstone Dr - Loop 303

CITY OF PEORIA

GIS
Geographic Information Systems
CITY OF PEORIA
ARIZONA

NOTE:
This Map is based on imprecise source data, subject to change and FOR GENERAL REFERENCE ONLY.

RCM: 3a

CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT

Date Prepared: March 12, 2012 **Council Meeting Date: March 20, 2012**

TO: Carl Swenson, City Manager

FROM: Jeff Tyne, Interim Community Services Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Bravo Peoria

Summary:

On Saturday, March 3rd the Sunrise Mountain Library held its annual book sale, Bravo Peoria, sponsored by the Friends of the Peoria Public Library. The book sale and family activities were a hit with the those in attendance. Kids and adults alike enjoyed juggling, live animals, balloon making, a puppet show, face painting, beading, henna tattoos and much more.

Many residents went home with new or gently used books that were reasonably priced, resulting in record breaking sales for the Friends. Overall attendance this year was estimated at 2,600 visitors, with over $3,800 in generated revenue. This strong presence suggests a strong citizen interest in supporting community-based reading events.

A special thank you goes out to the Friends of the Peoria Library for sponsoring the event. The funds collected by the Friends support library services.

Exhibit(s): None

Contact Name and Number: Mary Roberts 623-773-7557