



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

**CITY COUNCIL REGULAR MEETING
NOTICE & AGENDA
Tuesday, April 03, 2012
7:00 PM
CITY COUNCIL CHAMBER**

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:**

PRESENTATION:

1. Certificates of Appointment to the following Board and Commission members who were appointed by Resolution at the March 20, 2012 City Council meeting:
 - William Bercu appointed to the Board of Adjustment,
 - Cecil Daniels appointed to the Board of Adjustment,
 - Reed Webber appointed to the Citizens Commission on Salaries for Elected City Officials,
 - Karen McDaniel appointed to the Library Board,
 - Matthew Porter appointed to the Municipal Development Authority,
 - Mary Truhler appointed to the Parks and Recreation Board,
 - Edward Ryan appointed to the Public Safety Personnel Retirement System – Fire,
 - Edward Ryan appointed to the Public Safety Personnel Retirement System – Police, and
 - Dominique Peterson appointed to the Youth Advisory Board.

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 Disposition of Absence

Discussion and possible action to excuse the absence of Mayor Bob Barrett for the following meetings:

March 20, 2012 Special Meeting and Study Session
March 20, 2012 Executive Session Meeting
March 20, 2012 Regular Meeting

2C Minutes

Discussion and possible action to approve the following minutes:

March 6, 2012 Special Meeting and Study Session
March 6, 2012 Regular Meeting
March 15, 2012 Study Session
March 20, 2012 Special Meeting and Study Session
March 20, 2012 Regular Meeting

3C Contract, Nesbitt Contracting Company, Inc., 83rd Avenue, Street and Drainage Improvements

Discussion and possible action to approve a contract with Nesbitt Contracting Company, Inc. in the amount not to exceed \$4,462,852 for the construction of the roadway improvements on 83rd Avenue between Las Palmeritas Drive and Mountain View Road, and the extension of Butler Drive from 83rd Avenue to 79th Avenue.

4C Intergovernmental Agreement, Maricopa County, Happy Valley Parkway Bridge Improvements

Discussion and possible action to: (a) approve an Intergovernmental Agreement with Maricopa County for the cost sharing, design, construction, and construction administration obligations relating to restriping approximately 1,500 feet of Happy Valley Parkway and construction of a safety rail along the south barrier of the Happy Valley Parkway Bridge; and (b) accept Maricopa County funds in the amount of \$80,000 and approve the associated budget transfer to establish budget authority for Maricopa County's share of the project cost.

5C Intergovernmental Agreement, Maricopa County, 87th Avenue; Via Montoya to Williams Road Improvements

Discussion and possible action to approve the Intergovernmental Agreement (IGA) between Maricopa County and the City of Peoria for the construction of 87th Avenue improvements from Via Montoya to Williams Road.

6C Intergovernmental Agreement, State of Arizona, Traffic Signal Emergency Operations, Intelligent Transportation System Project

Discussion and possible action to approve an Intergovernmental Agreement (IGA) between the State of Arizona and the City of Peoria to have the Arizona Department of Transportation (ADOT) execute the construction of the Traffic Signal Emergency Operations Intelligent Transportation System (ITS) Project.

7C Intergovernmental Agreement Amendment, State of Arizona, Beardsley Road Extension

Discussion and possible action to approve an amendment to the Intergovernmental Agreement (IGA) between the Arizona Department of Transportation (ADOT), Maricopa Association of Governments (MAG), City of Glendale (Glendale) and the City of Peoria (Peoria) for the maintenance of the Beardsley Road Extension, known as the Beardsley Connector.

8C Reallocation of HOME Partnership Funds

Discussion and possible action to reallocate \$363,267 of U.S. Department of Housing and Urban Development (HUD) HOME Program funding to Habitat for Humanity Central Arizona (HFHCAZ) for the purpose of completing affordable housing projects within the City of Peoria.

9C Notice of Intention to Adjust Water and Wastewater Rates and Establish Date of Public Hearing

Discussion and possible action to adopt the Notice of Intention and establish May 15, 2012 as the date for the public hearing to consider adoption of the recommended water and wastewater rates.

10C Deeds and Easements, Various Locations

Discussion and possible action to adopt **RES. 2012-38** accepting Deeds and Easements for various real property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office.

11C Replat, Sonoran Mountain Ranch Parcel 15, Sonoran Mountain Ranch Road and 75th Avenue Alignment

Discussion and possible action to approve a Replat of Sonoran Mountain Ranch Parcel 15, located at Sonoran Mountain Ranch Road east of the 75th Avenue alignment, subject to stipulations.

12C Final Plat, Sweetwater Ridge, Thunderbird Road and 75th Avenue

Discussion and possible action to approve a Final Plat of Sweetwater Ridge (also referred to as Southwest Kidney), located at Thunderbird Road and 75th Avenue, subject to stipulations.

REGULAR AGENDA

NEW BUSINESS

13R Public Hearing-Liquor License, Ooka Hibachi Grill, located at 16049 North Arrowhead Fountain Drive Building B

PUBLIC HEARING: RE: New Restaurant Liquor License (Series 12) for Ooka Hibachi Grill, located at 10649 North Arrowhead Fountain Dr Building B, Qi He Chen, Applicant, LL#20004350.

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 Ooka Hibachi Grill, located at 10649 North Arrowhead Fountain Dr Building B, Qi He Chen, Applicant, LL#20004350.

14R PUBLIC HEARING - Code Amendment Chapter 14, Political Signs and Sports Complex Commercial Tourism Zone

PUBLIC HEARING: RE: an amendment to Chapter 14 of the Peoria City Code (1977 Edition) to amend Article 14-34 "Signs" with respect to political sign regulations (case TA11-0006) and **RES. 2012-39** creating a "Sports Complex Commercial Tourism Zone" for the purposes of restricting placement of political signs in the City-owned right-of-way around the Sports Complex.

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

COUNCIL ACTION: Discussion and possible action to concur with the Planning and Zoning Commission's recommendation to adopt **ORD. 2012-06** amending Article 14-34 "Signs" with respect to Political Signs and concur with staff's recommendation to adopt **RES. 2012-39** creating a "Sports Complex Commercial Tourism Zone" for the purposes of restricting the placement of political signs in the City-owned right-of-way around the Sports Complex.

15R Charter Amendment to Article VI, Section 3, Taxing Powers pertaining to Sales Tax on Wastewater Collection Services

Discussion and possible action to adopt **Res. 2012-40** placing a proposed charter amendment on the August 28, 2012 Regular Election Ballot that would amend Article VI, Section 3 of the Peoria City Charter pertaining to Sales Tax on Wastewater Collection Services.

16R Charter Amendment to Article II, Section 5 of the Peoria City Charter pertaining to Terms of Councilmembers

Discussion and possible action to adopt **Res. 2012-42** placing a proposed charter amendment on the August 28, 2012 Regular Election Ballot that would amend Article II, Section 5 of the Peoria City Charter pertaining to Terms of Councilmembers.

17R Charter Amendment to Article II, Section 20, Interference in Administrative Service pertaining to Policy Making by Charter Officers

Discussion and possible action to adopt **Res. 2012-41** placing a proposed charter amendment on the August 28, 2012 Regular Election Ballot that would amend Article II, Section 20 of the Peoria City Charter pertaining to Policy Making by Charter Officers.

18R Charter Amendment to Article VI, Section 3, Taxing Powers pertaining to Percent for the Arts

Discussion and possible action to adopt **Res. 2012-43** placing a proposed charter amendment on the August 28, 2012 Regular Election Ballot that would amend Article VI, Section 3, of the Peoria City Charter pertaining to Percent for the Arts.

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. BioScience Incubator in Peoria
 - b. Council Subcommittee Update
 - c. Distinguished Budget Award

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.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Pres: #1

Date Prepared: March 21, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager
FROM: Wanda Nelson, MSM, CMC, City Clerk
THROUGH: Susan K. Thorpe, Deputy City Manager
SUBJECT: Boards and Commissions Reappointments

Purpose:

This is a request for City Council to present a plaque and Certificate of Appointment to the following Board and Commission members as follows:

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

Background/Summary:

Newly appointed Board and Commission members are invited to attend a Regular City Council meeting to personally accept a plaque and Certification of Appointment from the Mayor and City Council.

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 referenced above 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.

On March 20, 2012 City Council approved the following resolutions of appointment:

- Resolution No. RES. 2012-20 appointing William Bercu, as a regular member, to the Board of Adjustment for a term to expire December 2015.
- Resolution No. RES 2012-21 appointing Cecil Daniels, as an alternate member, to the Board of Adjustment for terms to expire December 2015.
- Resolution No. 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.
- Resolution No. RES 2012-23 appointing Karen McDaniel, as a regular member, to the Library Board for a partial term to expire June 2013.
- Resolution No. RES 2012-24 appointing Matthew Porter, as a regular member, to the Municipal Development Authority for a term to expire November 2014.
- Resolution No. RES 2012-25 appointing Mary Truhler, as a regular member, to the Parks and Recreation Board for a partial term to expire June 2012.
- Resolution No. RES 2012-26 reappointing Mary Truhler, as a regular member, to the Parks and Recreation Board for a term to expire June 2016.
- Resolution No. 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.
- Resolution No. 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.
- Resolution No. RES 2012-29 appointing Dominique Peterson, as a regular member, to the Youth Advisory Board for a partial term to expire June 2012.
- Resolution No. RES 2012-30 reappointing Dominique Peterson, as a regular member, to the Youth Advisory Board for a term to expire June 2014.

Options:

This is a presentation item only.

Staff's Recommendation:

That the Mayor and City Council present Certificates of Appointment to Board and Commission members who were appointed, by Resolution, at the April 3, 2012 City Council meeting.

Fiscal Analysis:

There is no fiscal impact regarding this item.

Narrative:

Newly appointed Board and Commission members have been invited to the April 3, 2012 City Council meeting to receive their respective Plaque and Certificate of Appointment.

Exhibit(s): There are no exhibits.

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

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
March 6, 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 Thorpe, Deputy City Manager; Steve Kemp, City Attorney; Wanda Nelson, City Clerk; Stacy Irvine, Interim Fire Chief; Bo Larsen, Public Information Manager; Claudia Luján, Interim Human Resources Director; Roy Minter, Police Chief; John Schell, Intergovernmental Affairs Director; Jeff Tyne, Interim Community Services Director; Corina Russo, Assistant to the City Manager; and Linda Blas, Deputy City Clerk.

Audience: Approximately three 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 Carlat, 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 discussion with Legal Counsel for Legal Advice on contemplated litigation regarding the Notice of Claim filed by Peoria Police Officer's Association, et. al, 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, summarized a proposed charter amendment pertaining to policy making by Charter Officers.

Councilmember Rivero advised he had requested the proposed amendment be submitted for discussion in order to clearly outline the role of Council and other Charter Officers.

Mr. Kemp presented a proposed charter amendment imposing term limits for members of Council.

Discussion ensued regarding setting term limits for members of Council and extending the term limits for the Office of Mayor.

Mr. Kemp reviewed a proposed charter amendment regarding the placement of items on a Council agenda.

Discussion ensued regarding the number of members of Council required to request placement of an item on a Council agenda.

Mr. Kemp presented a proposed charter amendment on the Percent for the Arts.

Discussion ensued pertaining to voter approval for increasing taxes levied on the cost of capital improvement projects for funding public art.

Mr. Kemp provided information on two proposed charter amendments related to the criteria for redistricting and establishing a municipal independent redistricting commission.

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

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 5:56 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 6th day of March, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 3rd day of April, 2012.

(Seal)

Wanda Nelson, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
March 6, 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, Councilmember Carlat 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; Katie Gregory, Interim Management and Budget Director; Stacy Irvine, Interim Fire Chief; Chris Jacques, Planning and Community Development Director; Bo Larsen, Public Information Manager; Claudia Luján, Interim Human Resources Director; Bill Mattingly, Public Works and Utilities Director; Roy Minter, Police Chief; John Schell, Intergovernmental Affairs Director; Jeff Tyne, Interim Community Services Director; Corina Russo, Assistant to the City Manager; 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.

PROCLAMATION:

1. Recognition of the Peoria High School 2012 State Champion Boys Basketball Team

Mayor Barrett presented a proclamation to the Peoria High School 2012 State Champion Boys Basketball Team.

PRESENTATION:

1. New Legislative Representative Introduction - District 4 Representative Phil Lovas

Mayor Barrett introduced newly appointed Representative Phil Lovas. Representative Lovas advised Council he looks forward to working with the Council and residents of Peoria to advance the needs of the City.

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Constance McMillin, Secretary and Treasurer of the Board of Trustees for the West Valley Art Museum, provided Council a copy of Sun Life magazine featuring an article on the current exhibition at the Art Museum.

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

CONSENT – New Business:

1C Minutes

Approved the minutes of:

January 31, 2012 Study Session
February 7, 2012 Special Meeting and Study Session
February 7, 2012 Regular Meeting

2C Finalize Transfer of Public Housing Operations to Maricopa County

RESOLUTION 2012-19

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, TO APPROVE THE PERMANENT AND VOLUNTARY TRANSFER OF THE MANAGEMENT, OPERATIONS AND ASSETS OF THE PUBLIC HOUSING AUTHORITY TO THE HOUSING AUTHORITY OF MARICOPA COUNTY.

Adopted **RES. 2012-19** authorizing the transfer of the Public Housing Authority operations and programs to the Housing Authority of Maricopa County as recommended by the Council Not-For-Profit Review and Housing Sub-Committee.

3C Memorandum of Understanding, West Valley Art Museum, Gallery Operations

Approved a Memorandum of Understanding with the West Valley Art Museum to operate the Art Gallery at City Hall.

4C License Agreement, Zayo Group, LLC, Telecommunications Services

Approved a License Agreement with Zayo Group, LLC for a period of five years for permission to construct, install, operate, maintain, and use public highways, public rights-of-way, public streets, and public utility easements within the City of Peoria to provide telecommunications services.

5C Budget Amendment, Legal Fees for Implementation of New Impact Fee Statute

Approved a budget amendment in the amount of \$15,000 from the City's contingency appropriation to various impact fees funds to pay Peoria's share of legal fees incurred for the implementation of the new development impact fee statute.

6C Final Plat, Peoria Community Center, 83rd Avenue and Madison Street

Approved a Final Plat of Peoria Community Center, located at the northwest corner of 83rd Avenue and Madison Street, subject to stipulations.

7C Final Plat, Sunset Ranch IIC, Lake Pleasant Parkway, North of Williams Road

Approved a Final Plat of Sunset Ranch IIC, located on Lake Pleasant Parkway north of Williams Road, subject to stipulations.

8C Final Plat, Sunset Ranch IID, Lake Pleasant Parkway, North of Williams Road

Approved a Final Plat of Sunset Ranch IID, located on Lake Pleasant Parkway north of Williams Road, subject to stipulations.

9C Final Plat, Sunset Ranch IIE, Lake Pleasant Parkway, North of Williams Road

Approved a Final Plat of Sunset Ranch IIE, located on Lake Pleasant Parkway north of Williams Road, subject to stipulations.

10C Condo Plat, Riverwalk Professional, 77th Avenue and Deer Valley Road

Approved a Condo Plat of Riverwalk Professional, located at 77th Avenue and Deer Valley Road, subject to stipulations.

REGULAR AGENDA

NEW BUSINESS

11R Council Subcommittees

Susan Thorpe, Deputy City Manager, provided a brief overview on the formation of Council Subcommittees and the request to reduce the number of Subcommittees from six to four.

Motion was made by Vice Mayor Aames, seconded by Councilmember Pearson to approve the recommendation to reduce Council Subcommittees from six to four as presented and adopt revised Council Policy 1-10. Upon vote, the motion carried unanimously 7 to 0.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

None.

Reports from the City Manager:

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

Carl Swenson, City Manager, informed Council that their Agenda packet contains information related to the following item:

- a. Council Subcommittee Update

Mr. Swenson advised Council that attendance at the first three spring training baseball games had doubled over last year's attendance. Mr. Swenson reported that the Brava Peoria celebration and book sales will be held at the Sunrise Mountain Library on Saturday, March 10, 2012 between 9:00 a.m. and 2:00 p.m.

Reports from City Council:

Councilmember Leone reported on the various City of Peoria events he attended. Councilmember Leone commended Councilmember Pearson and the Community Services Department staff for a successful "P83" event.

Councilmember Carlat reported on her attendance at the Sidewinder Little League Opening Day ceremonies.

Councilmember Rivero invited residents to attend the Acacia District Spring Fest to be held on Thursday, March 8, 2012 beginning at 4:00 p.m. at Varney Park. Councilmember Rivero encouraged citizens to participate in the Ira Murphy Elementary School Annual 5K Run on Saturday, March 10, 2012 beginning at 8:00 a.m.

Councilmember Pearson thanked all City staff involved in making the “P83” party a noteworthy event.

Councilmember Evans extended her appreciation to the citizens of the Willow District who attended the community meeting at the Pinnacle Peak Public Safety Building on Lake Pleasant Parkway.

Vice Mayor Aames reported on the various City of Peoria events he attended. Vice Mayor Aames congratulated both the Peoria boys and girls basketball players for their ranking in the Division II Championship basketball games.

Reports from the Mayor:

Mayor Barrett reported on the Peoria Diamond Club Annual Charity Game Fundraiser benefitting youth charities. Mayor Barrett encouraged citizens to participate in the “One for Water” four-mile race on March 10, 2012 at Rio Vista Park in support of the community’s efforts to manage and conserve water.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 7:41p.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 6th day of March, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 3rd day of April, 2012.

(Seal)

Wanda Nelson, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
Pine Conference Room
March 15, 2012

A **Study Session Meeting** 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.

Following a moment of silent reflection, Councilmember Evans 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; Katie Gregory, Interim Management and Budget Director; John Imig, Information Technology Director; Bill Mattingly, Public Works and Utilities Director; Brent Mattingly, Finance Director; Roy Minter, Police Chief; Jeff Tyne, Interim Community Services Director; Chris Jacques, Planning and Development Director.

Audience: Approximately fifty 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.

Subject for Discussion only:

1. Theater Lease Agreements (Theater Works and Arizona Broadway Theatre)

Susan Daluddung, Deputy City Manager, provided an overview on the negotiations of the lease agreements with Arizona Broadway Theatre (ABT) and Theater Works. Jeff Tyne, Interim Community Services Director, reviewed the history of the theater agreements. Mr. Tyne provided information pertaining to:

- Contractual Obligations
- Current Market Conditions
- Long-term strategies
- Financial discussions
- Lease payment schedule with ABT

Discussion ensued regarding the current lease payment schedule with ABT, and the possibility of changing their lease to a nominal fee of one dollar per year. The pros and cons for the following topics were reviewed:

- Ticket Surcharge
- Partnership Opportunities
- City Sell/Cede Land to ABT
- City Assumption of Facility and Operations

Mr. Tyne reviewed the staff recommendation of the dollar per year lease agreement and discussed the activities for the next few months.

Kiel Klaphake, ABT Executive Director, described the dual private/non-profit organizational structure that operates within ABT.

Steve Matthews, Chairman of the Board of ABT, requested that Council support the dollar per year lease agreement.

Lowell Bamford, ABT Boardmember, outlined his dedication to ABT throughout the years, both in terms of volunteer service and financial support.

Mr. Klaphake described the stressed financial year ABT had in 2011. He asked for Council's support to create a future win-win strategy between ABT and the community.

It was the consensus of Council to push back the lease for one year.

Councilmember Carlat left at 6:22 p.m.

The Council asked staff to explore different options for negotiating points within the lease with ABT, as noted in the pro/con discussion outlined above.

Mayor Barrett called for a recess at 6:25 p.m. The meeting resumed at 6:35 p.m.

2. Solid Waste Rates - Residential and Commercial

Maher Hazine, Deputy Public Works Director, provided an overview of the financial conditions within the City's Solid Waste Service Division. Discussion ensued regarding:

- Increasing the rates for Commercial Solid Waste
- Adopting a rate for Commercial Recycling
- Reducing the rates for Residential Solid Waste

Mr. Hazine outlined the *Council Subcommittee on General Government's* discussion on a new utility bill design. Councilmember Pearson provided a sample of a utility bill where the costs of Residential Garbage and Residential Recycling are broken out individually.

It was the consensus of Council to delineate the costs on the utility bill for Residential Garbage and Residential Recycling.

Mr. Hazine outlined the Commercial Services provided by the City, including recycling

and solid waste collections. Customized service is being provided to recycling customers, depending on their individualized needs.

Katie Gregory, Interim Budget Director, outlined staff's recommendation for the following:

- 13% reduction in residential solid waste costs
- 3% increase in commercial solid waste charges
- Establish a charge for commercial recycling

It was the consensus of Council to affirm staff's recommendation and include these elements in the FY 2013 budget.

3. Fiscal Year 2013 Proposed Budget

Carl Swenson, City Manager, provided an overview of the discussions held with Council regarding the upcoming budget process. Mr. Swenson noted staff's "cautious optimism" with respect to job growth, sales tax/customer confidence, and housing statistics.

Mr. Swenson outlined the principles of sound financial management and the FY2013 Budget approach, considering the following elements:

- Follow Council Policy Goals
- Links Council Goals to Department Operations
- Modified Zero-based Budgeting
- Maintain Service Levels
- Focus on Efficiencies

Mr. Swenson discussed the FY2013 Budget Challenges:

- Department budgets remain tight
- Complete Capital Projects
- Fund Economic Development Initiatives

Katie Gregory, Interim Management and Budget Director, outlined the process taken to create the proposed FY2013 budget. Discussion ensued regarding:

- An economic and financial overview
- Approaches taken in developing the proposed budget
- Highlights of the key aspects of the spending plans

Mr. Swenson stated that the Capital Improvement Plan (CIP) and Operating Budgets will be reviewed at the City Council Budget Study Sessions scheduled for the last week of March.

Adjournment:

Being no further business to come before the Council, the meeting was duly adjourned at 8:13 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 Study Session Meeting of the City Council of Peoria, Arizona held on the 15th day of March day of, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 3rd day of April, 2012.

(Seal)

Wanda Nelson, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
March 20, 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 5:03 p.m.

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

Members Absent: Mayor Bob Barrett

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Steve Burg, Chief Assistant City Attorney; Wanda Nelson, City Clerk; Stacy Irvine, Interim Fire Chief; Bo Larsen, Public Information Manager; John Schell, Intergovernmental Affairs Director; Jeff Tyne, Interim Community Services Director; Scott Whyte, Economic Development Services Director; Corina Russo, Assistant to the City Manager; Rhonda Geriminsky; Chief Deputy City Clerk.

Audience: 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.

Vice Mayor Aames asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Pearson, seconded by Councilmember Rivero, to approve the Consent Agenda. Upon vote, the motion carried unanimously 6 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 discussion with legal counsel for legal advice regarding contract negotiations with Professional Medical Transport, pursuant to A.R.S. § 38-431.03(A)(4).

STUDY SESSION AGENDA

Subjects for Discussion Only:

1. Economic Development Opportunity

Wes Gullett, Partner FirstStrategic, explained the purpose of the Phoenix-based firm, FirstStrategic, and outlined their partnership with Partner PricewaterhouseCoopers.

Gerald McDougal, Partner PricewaterhouseCoopers, participated by telephone and outlined Partner PricewaterhouseCoopers' healthcare strategy and their ability to respond to key trends and to serve all sectors of healthcare. Mr. McDougal discussed:

- BioMedical Cluster Stakeholders
- Regional Innovation Clusters of the future
- Trends and implications of the BioMedical and Pharma Industry
- Innovation and the value chain challenge: fixing the gaps
- The clustering approach
- Major interdependent instrumental frameworks for local and regional development
- Competition, growth and innovation
- Issue-based industries
- Innovation drivers and success factors
- TGen – a private non-profit research institute performing advanced translational genomics research in oncology, neurological disease, diabetes and human pathogens.
- Partner PricewaterhouseCoopers' partnership with Luxembourg

Mike Masterson, President, The Innovation Health and technology Group, discussed the Bioreactor and the advantages of modern day Bioreactors. Advantages include:

- Reduction in build and commissioning time
- Reduction in CAPEX investment
- Reduction in OPEX
- Significant COGS reduction
- Sustainability and efficient resource use
- Reduced time and cost to produce
- Increased quality

Discussion ensued regarding:

- Timelines and locations for building the BioMedical industry
- Types of job opportunities available in the BioMedical industry
- The City's role in a partnership with Partner FirstStrategic and Partner PricewaterhouseCoopers

Consensus of the Council is to look further into the opportunities offered by Partner FirstStrategic.

2. Charter Amendment to Article VI, Section 3, Taxing Powers regarding City Sales Taxes on Wastewater Collection Services

Steve Burg, Chief Assistant City Attorney, provided an overview of the proposed charter amendment to Article VI, Section 3 regarding taxing powers on City Sales Taxes for Wastewater Collection Services.

Discussion ensued regarding:

- History of taxing wastewater collection services in the City of Peoria

Consensus of Council is to add the proposed charter amendment to the list of those that will be brought to Council for a vote at a future Council meeting.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 6:25 p.m.

Ron Aames, Vice 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 20th day of March, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 3rd day of April, 2012.

(Seal)

Wanda Nelson, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
March 20, 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, Councilmember Rivero led the Pledge of Allegiance.

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

Members Absent: Mayor Bob Barrett

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Steve Burg, Chief Assistant City Attorney; Wanda Nelson, City Clerk; Andy Granger, Engineering Director; Katie Gregory, Interim Management and Budget Director; Stacy Irvine, Interim Fire Chief; Bo Larsen, Public Information Manager; Bill Mattingly, Public Works and Utilities Director; Roy Minter, Police Chief; Jeff Tyne, Interim Community Services Director; Corina Russo, Assistant to the City Manager; Rhonda Geriminsky; Chief Deputy City Clerk.

Audience: Approximately 20 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:

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.

Vice Mayor Aames asked if any Councilmember wished to have an item removed from the Consent Agenda.

Councilmember Pearson requested that Agenda Item 5C be removed for separate discussion.

Motion was made by Councilmember Carlat, seconded by Councilmember Leone, to

approve the Consent Agenda with the exception of Agenda Item 5C. Upon vote, the motion carried unanimously 6 to 0.

CONSENT – New Business:

1C Minutes

Approved the following minutes:

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

2C Appointments, Boards and Commissions

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

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

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

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

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

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

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

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

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

Adopted **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

Approved 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

- (a) Awarded 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) Approved 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

Clerk's Note: Agenda Item 5C was removed from the Consent Agenda for separate discussion and was heard after the Consent Agenda.

At the request of Councilmember Pearson, Agenda Item 5C was removed from the Consent Agenda for separate discussion. Wanda Nelson, City Clerk, outlined the discussions and the basis for the recommendation from the Citizens Commission on Salaries for Elected City Officials.

Discussion ensued regarding:

- Salary comparisons to surrounding cities
- Benefits received by Council
- Part-time status
- Medical insurance
- Council salaries

Motion was made by Councilmember Carlat, seconded by Councilmember Evans, to reject the recommendation of the Citizens Commission on Salaries for Elected City Officials.

Upon vote, the motion passed unanimously 6 to 0.

6C Budget Adjustment, Increased Fuel Costs, Fleet Services

Approved 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

- (a) Approved 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) Approved 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

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.

Adopted **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

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.

Adopted **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

Approved 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

Staff Report/Public Comment:

Wanda Nelson, City Clerk, reported that the property was posted in accordance with Arizona law, all fees were paid, all reviewing Departments recommended approval, and no comments were received from the public.

PUBLIC HEARING:

Vice Mayor Aames opened the Public Hearing and asked if any Councilmember or citizen wished to comment on a request for a New Restaurant Liquor License (Series 12) for Lantern, located at 10738 N. 75th Avenue, Suite B-7, Linda Quach, Applicant, LL#20004652.

Having no requests from the public to address this item, Vice Mayor Aames declared the Public Hearing closed.

COUNCIL ACTION:

Motion was made by Councilmember Leone, seconded by Councilmember Pearson 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.

Upon vote, the motion carried unanimously 6 to 0.

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

Maher Hazine, Deputy Director of Public Works, provided an overview of the proposed agreement with Waste Management of Arizona for solid waste disposal and the processing of recyclable materials.

Mr. Hazine provided information regarding:

- Multiple agreements
- Regional Landfill and recycling facilities
- Comparison of agreements/options

Discussion ensued regarding:

- Multiple landfills close in proximity
- Costs to recycle
- Number of landfills used by the City of Peoria

Dan Zenko, Materials Management Supervisor, provided Council with information regarding the use of single source procurement.

Will Herzog, Vice President, Western Region, Hudson Baylor Recommunity, addressed Council regarding recycling services.

Denette Dunn addressed Council requesting that Council go out to bid for residential solid waste services in order to give other companies the opportunity to provide the requested services to the City.

Discussion ensued regarding:

- The cost effectiveness of combining recycling and garbage services
- Length of the contract options
- Alternative options

Motion was made by Councilmember Pearson, seconded by Councilmember Carlat, to approve an agreement with Waste Management of Arizona under the terms of Option B for Solid Waste Disposal and for Processing Recyclable Materials, and to have staff investigate additional options and competitive bids.

Upon vote, the motion carried unanimously 6 to 0.

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

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.

Steve Burg, Chief Assistant City Attorney, provided an overview of the request to consider revisions to the Peoria City Charter pertaining to vacancies in the Office of the Mayor and Council.

Discussion ensued regarding election timeframes.

Motion was made by Councilmember Pearson, seconded by Councilmember Leone, 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.

Upon vote, the motion carried 4 to 2, with Councilmembers Carlat and Evans voting "no".

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

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.

Steve Burg, Chief Assistant City Attorney, provided an overview of the request to consider revisions to the Peoria City Charter pertaining to Vice-Mayor and induction of Mayor and Council into office.

Motion was made by Councilmember Leone, seconded by Councilmember Rivero, to not 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.

Upon vote, the motion carried unanimously 6 to 0.

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

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.

Steve Burg, Chief Assistant City Attorney, provided an overview of the request to consider revisions to the Peoria City Charter pertaining to the City Clerk.

Motion was made by Councilmember Leone, seconded by Councilmember Rivero, 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.

Upon vote, the motion carried 4 to 2, with Councilmembers Carlat and Evans voting "no".

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

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.

Steve Burg, Chief Assistant City Attorney, provided an overview of the request to consider revisions to the Peoria City Charter pertaining to the Council's involvement in the appointment and removal of City employees.

Discussion ensued regarding:

- Current freedom to discuss the appointment and removal of employees
- Attracting quality employees

Motion was made by Councilmember Leone, seconded by Councilmember Rivero, 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.

Upon vote, the motion carried 4 to 2, with Councilmembers Carlat and Evans voting “no”.

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

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.

Steve Burg, Chief Assistant City Attorney, provided an overview of the request to consider revisions to the Peoria City Charter pertaining to repealing or suspending ordinances.

Discussion ensued regarding the current super majority requirements to amend ordinances.

Motion was made by Councilmember Pearson, seconded by Councilmember Rivero, 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.

Upon vote, the motion carried 4 to 2, with Councilmembers Carlat and Evans voting “no”.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

None.

Reports from the City Manager:

1. Council Calendar
2. Reports with Presentation

None.

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.)

Carl Swenson, City Manager, informed Council that their packets contain information related to the following items:

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

Mr. Swenson also informed Council of the following upcoming events:

- Dolly Sanchez Easter Egg Hunt at the Peoria Sports Complex on April 7th
- Pioneer Days Festival in Old Town on April 14th

Reports from City Council:

Councilmember Leone reported on the various City of Peoria activities he attended. Councilmember Leone informed citizens of the Farmer's Markets at Osuna Park every Sunday, and the Organic Market at Park West and encouraged citizens to attend.

Councilmember Carlat reported that three residents in the Trilogy community were bitten by coyotes, which is a rare occurrence. Councilmember Carlat expressed her appreciation for the way in which the Peoria Police Department and the Division of Wildlife handled the incidents.

Councilmember Evans encouraged citizens to enjoy the weather and outdoor activities at the Peoria Sports Complex.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 9:10 p.m.

Ron Aames, Vice 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 20th day of March, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 3rd day of April, 2012.

(Seal)

Wanda Nelson, City Clerk

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 3C

Date Prepared: March 13, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

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

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Contract, Nesbitt Contracting Company, Inc., 83rd Avenue Street and Drainage Improvements

Purpose:

This is a request for City Council to approve a contract with Nesbitt Contracting Company, Inc. in the amount not to exceed \$4,462,852 for the construction of the roadway improvements on 83rd Avenue between Las Palmeritas Drive and Mountain View Road, and the extension of Butler Drive from 83rd Avenue to 79th Avenue.

Background/Summary:

This project has been identified as one of the city's top priorities in the Streets Capital Improvement Program. When completed, these improvements will increase the capacity and safety along 83rd Avenue and Butler Drive and provide the required improvements for future bus transit routes and bike route expansions in southern Peoria. In addition, this project will include construction of the driveways, sidewalks, pedestrian improvements, utility service points, and transit bus pullouts adjacent to Community Park #2. A summary of the improvements to be constructed with this contract are provided below:

- Widening of 83rd Avenue to two lanes and bike lanes in each direction between Las Palmeritas Drive (City Limit) and Mountain View Road.
- Northbound 83rd Avenue to eastbound Olive Avenue right turn lane.
- Extension of Butler Drive from 83rd Avenue to 79th Avenue (currently unimproved ½ street).
- Future Community Park #2 offsite improvements.
- Raised landscaped medians with 36" box trees, median pavers, boulders, and decomposed granite.
- Reclaimed water irrigation to all new landscaping.
- 83rd Avenue pedestrian crossing at Alice Avenue to park.
- Traffic signal upgrades at Olive Avenue and a new traffic signal at Butler Drive.

- Storm drain improvements.
- Water system improvements.

Bids were opened on March 13, 2012, and there were 10 bidders. Nesbitt Contracting Company, Inc. is the lowest responsive and responsible bidder at \$4,462,851.38. The engineers estimate for this work was \$5,300,000.

Previous Actions:

Below are previous actions related to this project.

- May 2010 – Award contract to EPS Group, Inc. for design consulting services.
- October 2010 – Annexation of 83rd Avenue right of way from County to City.
- March 2011 – August 2011 – Construction of 12” Reclaimed Waterline From the City Wastewater Treatment Plant on 79th Avenue and Butler Drive to the City Hall Campus.

Options:

- A:** Approve the Construction Contract in the amount not to exceed \$4,462,852 to Nesbitt Contracting Company, Inc. for the construction of the street and drainage improvements on 83rd Avenue between Las Palmeritas Drive and Mountain View Road, including the extension of Butler Drive between 83rd Avenue and 79th Avenue.
- B:** Deny the Construction Contract in the amount not to exceed \$4,462,852 to Nesbitt Contracting Company, Inc. for the construction of the street and drainage improvements on 83rd Avenue between Las Palmeritas Drive and Mountain View Road, including the extension of Butler Drive between 83rd Avenue and 79th Avenue.

This would result in the construction of the intersection improvements being delayed or not constructed at all, potentially delaying the opening of Community Park #2.

Staff's Recommendation:

Staff recommends the approval of the Construction Contract in the amount not to exceed \$4,462,852 to Nesbitt Contracting Company, Inc. for the construction of the street and drainage improvements on 83rd Avenue between Las Palmeritas Drive and Mountain View Road.

Fiscal Analysis:

Funding for this project is available in the FY2012 Capital Improvement Plan.

A total expenditure in the amount of \$4,462,852 will be made from the following Street System accounts:

4220-4220-543001-CIPST-EN00313CO – \$996,942
7001-7051-543001-CIPST-EN00313CO – \$269,053
4550-4550-543001-CIPST-EN00313CO – \$2,534,426
2400-2550-543003-CIPWW-EN00313CO – \$374,268
4810-4810-543001-CIPST-EN00313CO – \$80,609
2050-2140-543002-CIPWR-EN00313CO – \$207,554

Narrative:

Construction is anticipated to begin in May 2012 and be completed in May 2013, prior to the completion of Community Park #2. Approval of the construction contract will allow construction to proceed per this schedule.

Exhibits:

Exhibit 1: Vicinity Map

Exhibit 2: Location Map



NOT TO SCALE

DOVE VALLEY RD

LONE MOUNTAIN RD

MONTGOMERY RD

DIXILETA DR

PEAK VIEW RD

DYNAMITE BL

PINNACLE VISTA DR

JOMAX RD

YEARLING RD

HAPPY VALLEY RD

CALLE LEJOS

PINNACLE PEAK RD

WILLIAMS RD

DEER VALLEY RD

ROSE GARDEN LN

BEARDSLEY RD

UTOPIA RD

UNION HILLS DR

GROVERS AVE

BELL RD

PARADISE LN

GREENWAY RD

ACOMA DR

THUNDERBIRD RD

SWEETWATER AVE

CACTUS RD

CHOLLA ST

PEORIA AVE

MOUNTAIN VIEW RD

OLIVE AVE

BUTLER DR

NORTHERN AVE

LEGEND



83rd Ave & Butler Dr
Improvements

115TH AVE
111TH AVE
107TH AVE
103RD AVE
99TH AVE
95TH AVE
91ST AVE
87TH AVE
83RD AVE
79TH AVE
75TH AVE
71ST AVE



VICINITY MAP



NOT TO SCALE



HATCHER RD

OLIVE AVE

Proposed Improvements

79TH AVE

BUTLER DR

83RD AVE



City of Peoria 83rd Avenue & Butler Drive Improvements Location Map

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

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 4C

Date Prepared: January 14, 2012

Council Meeting Date: March 6, 2012

TO: Carl Swenson, City Manager

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

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Intergovernmental Agreement, Maricopa County, Improvements to Happy Valley Parkway Bridge over the Agua Fria River

Purpose:

This is a request for City Council to: a) approve an Intergovernmental Agreement (IGA) between Maricopa County and the City of Peoria for the cost sharing, design, construction, and construction administration obligations relating to restriping approximately 1,500 feet of Happy Valley Parkway and construction of a safety rail along the south barrier of the Happy Valley Parkway Bridge; and b) accept Maricopa County funds in the amount of \$80,000 and approve the associated budget transfer to establish budget authority for Maricopa County's share of the project cost. This transfer does not represent an increased cost to the city. It just provides authority to spend money that will be collected at a later date.

Background/Summary:

In approximately 2003, the Maricopa County Department of Transportation (MCDOT) constructed the Happy Valley Parkway roadway improvements, which included the north half of the bridge over the Agua Fria River. The bridge was constructed with proper safety systems along the north side, but the south side was constructed with no bicyclist/pedestrian safety railings or sidewalk. The west side of the bridge is under County jurisdiction and the east side of the bridge is under City of Peoria jurisdiction.

The city has received a number of requests from residents to install a bike lane or wide shoulder area across the Happy Valley Parkway Bridge. In response, the city is planning a project that will; 1) obliterate approximately 1,500 feet of existing striping on Happy Valley Parkway and re-stripe a wide shoulder area along the bridge that can be used by cyclists for the eastbound and westbound directions to match bike accommodations along the rest of the corridor and 2) place approximately 1,300 feet of safety rail along the south side of the Happy Valley Parkway bridge.

Currently, the city has the funding for the re-striping portion of the project but no funding for the construction of the safety rail. Following discussions with county staff, it was decided that in order to fund the safety rail portion of the project, the city submitted an application in the amount of \$80,000 to the Transportation Advisory Board Special Project Fund (TAB-SPF). The purpose of the TAB-SPF is to allow MCDOT to respond to proposed projects as determined appropriate by the TAB.

On November 16, 2011 the TAB recommended that the Board of Supervisors fund the project submitted by the City of Peoria from the FY2012 TAB-SPF in the amount of \$80,000. The purpose of the IGA is to define responsibilities of each agency which are summarized below:

City

- Act as lead agency
- Invoice the County for \$80,000 upon approval of the agreement by the Board of Supervisors
- Deliver a copy of the bid award to the County/Intergovernmental Relations Branch
- Provide the County a final accounting of all funds upon completion of the project
- Return any remaining funds to the County
- Complete the project by end of FY2012

County

- Cooperate with the completion of the project
- Issue no cost permits to City
- Remit payment within 30 days of receipt of an invoice from the City in the amount of \$80,000
- Notify the City after approval by the County Board of Supervisors
- Assign a representative to serve on the project team

Previous Actions:

- June 2011 - Staff prepared a preliminary set of striping plans and previously submitted to MCDOT for review. MCDOT provided comments which are being addressed by the City.
- June 2011 - Staff prepared an estimate for the obliteration and re-striping and construction of the safety rail.
- July 2011 – Staff submitted SPF application.
- August 2011 - Staff made preliminary contact with contractors to confirm estimates.
- December 2011/January 2012 – Negotiated terms of IGA with MCDOT.

Options:

A: Approve IGA with Maricopa County.

B: Deny approval of IGA, which will result in the delay of the project until such time as the City of Peoria is able to fund the completion of the re-striping and construction of the safety rail portions of the project together.

Staff's Recommendation:

Staff recommends the approval of: a) the IGA with Maricopa County for the cost sharing, design, construction, and construction administration obligations relating to restriping approximately 1,500 feet of Happy Valley Parkway, and the construction of a safety rail along the south barrier of the Happy Valley Parkway Bridge; and b) acceptance of Maricopa County funds in the amount of \$80,000 and approval of the associated budget transfer in the amount of \$80,000 from the Proposed Grants Fund, Contingency Account 7990-7990-570000 to the Outside Sources Fund, Street System Account 4810-4810-543001-CIPST-COP0001 to establish budget authority for Maricopa County's share of the project cost.

Fiscal Analysis:

The re-striping portion of the project will be funded from the Community Works Program – Quick Response in the amount of \$20,000. The safety rail portion of the project will be funded by the TAB-SPF outside sources account in the amount of \$80,000.

The City will continue to maintain the striping on the east half of the Happy Valley Parkway Bridge as is currently maintained today. The City will be responsible to maintain the new safety rail system along the south side of the bridge within the City limits. The estimated maintenance cost of the new safety rail is \$550 per year.

Staff recommends approval of a budget transfer in the amount of \$80,000 from the Proposed Grants Fund, Contingency Account 7990-7990-570000 to the Outside Sources Fund, Street System Account 4810-4810-543001-CIPST-COP0001.

Narrative:

The preliminary schedule anticipates the striping obliteration, application of micro-seal and re-striping to occur in mid-April 2012, after Spring Training. The construction of the safety rail is anticipated to be completed late summer 2012.

This IGA has been reviewed by the City Attorney's office.

Exhibits:

Exhibit 1: Vicinity Map

Exhibit 2: Location Map

Exhibit 3: Intergovernmental Agreement



NOT TO SCALE

DOVE VALLEY RD

LONE MOUNTAIN RD

MONTGOMERY RD

DIXILETA DR

PEAK VIEW RD

DYNAMITE BL

PINNACLE VISTA DR

JOMAX RD

YEARLING RD

HAPPY VALLEY RD

CALLE LEJOS

PINNACLE PEAK RD

WILLIAMS RD

DEER VALLEY RD

ROSE GARDEN LN

BEARDSLEY RD

UTOPIA RD

UNION HILLS DR

GROVERS AVE

BELL RD

PARADISE LN

GREENWAY RD

ACOMA DR

THUNDERBIRD RD

SWEETWATER AVE

CACTUS RD

CHOLLA ST

PEORIA AVE

MOUNTAIN VIEW RD

OLIVE AVE

BUTLER DR

NORTHERN AVE



LEGEND
 Happy Valley Pkwy Bridge
 Over Agua Fria River
 COP0001/COPEN1210

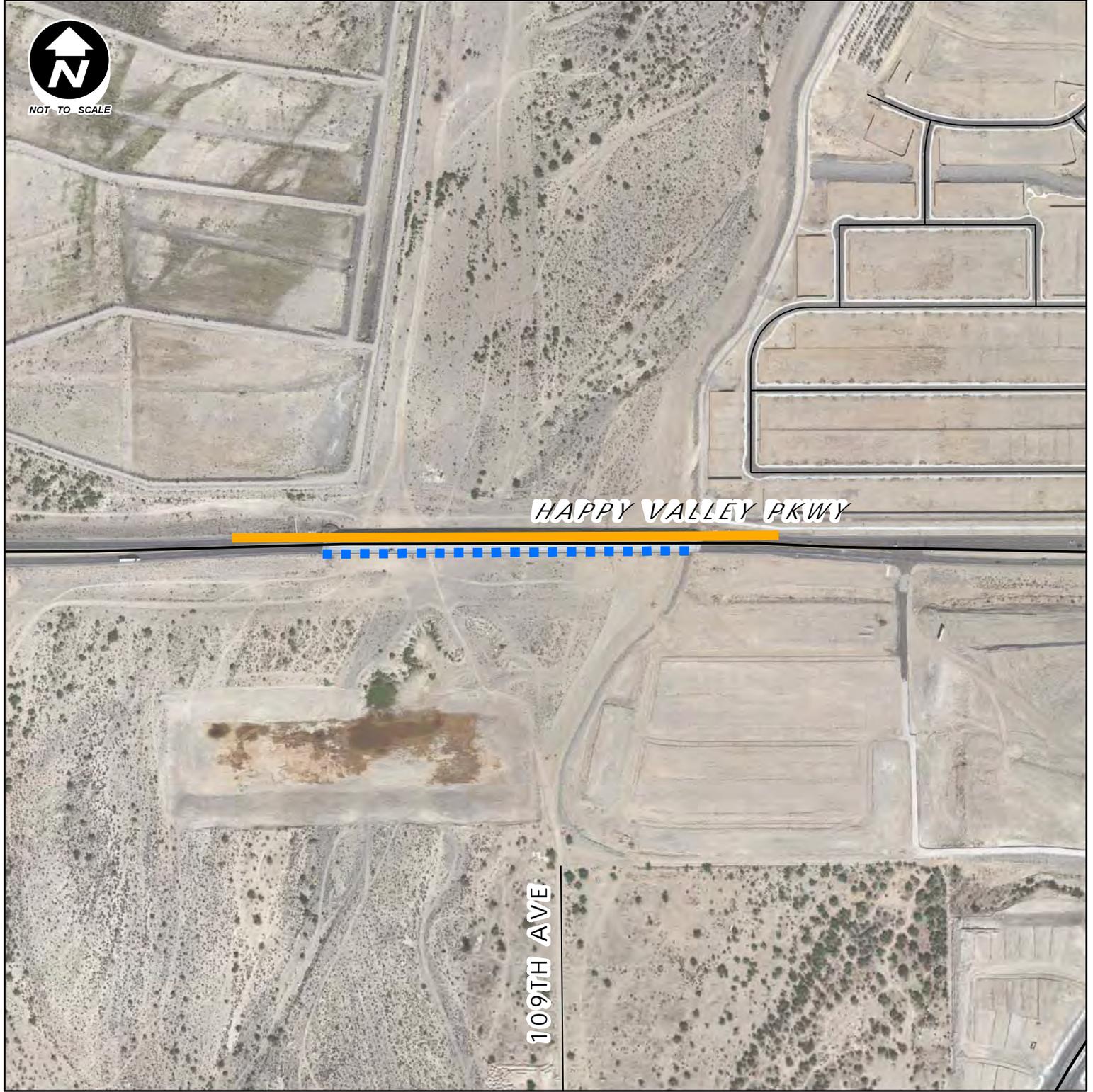
115TH AVE
 111TH AVE
 107TH AVE
 103RD AVE
 99TH AVE
 95TH AVE
 91ST AVE
 87TH AVE
 83RD AVE
 79TH AVE
 75TH AVE
 71ST AVE



VICINITY MAP
Exhibit 1



NOT TO SCALE



HAPPY VALLEY PKWY

109TH AVE

LEGEND

-  Area to be Obliterated
-  Install 1,300' of Bicyclist/Pedestrian Safety Rail

City of Peoria
 Happy Valley Pkwy Bridge
 Over Agua Fria River
 COP0001/COPEN1210
 Exhibit 2



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

INTERGOVERNMENTAL AGREEMENT
BETWEEN MARICOPA COUNTY AND THE CITY OF PEORIA
FOR IMPROVEMENTS TO HAPPY VALLEY PARKWAY BRIDGE OVER THE
AGUA FRIA RIVER
(TT003)
(C-91-11- _____ -M-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**County**), and the City of Peoria, a municipal corporation (**City**). The County and City are collectively referred to as the **Parties** or individually as a **Party**.

This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors.

STATUTORY AUTHORIZATION

1. A.R.S. § 11-251 and §§ 28-6701 *et seq.* authorize the County to layout, maintain, control and manage public roads and bridges within the County.
2. A.R.S. §§ 11-951 *et seq.* authorize public agencies to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. A.R.S. § 9-240 and §§ 9-276 *et seq.* authorize the City to layout and establish, regulate, and improve streets within the City.

BACKGROUND

4. In June of 2003, the County constructed the Happy Valley Parkway roadway improvements which included the north half of the bridge over the Agua Fria River. The south side of the bridge was constructed without bicyclist/pedestrian safety railings or sidewalk.
5. The City has received a number of requests from City and County residents to install a

bike lane or wide shoulder area across the Happy Valley Parkway Bridge on the south side of the bridge. In response, the City is planning to remove approximately 1,500 feet of the existing striping on Happy Valley Parkway and re-stripe a wide shoulder area along the bridge that can be used by cyclists for the eastbound and westbound directions to match bike accommodations along the rest of the corridor. This striping plan has been coordinated with the County for initial approval and is in the process of being completed for formal review. In addition, the City is planning to construct approximately 1,300 feet of safety fence along the south side of the bridge.

6. The bridge is in the jurisdictions of both the County and the City. The City shall be the lead agency for the Project. The City plans to begin construction in December of 2011. The estimated total cost of the Project is \$100,000.
7. The Board of Supervisors, by Resolution in May 2002, approved the creation of the Transportation Advisory Board Special Project Fund (SPF) in the amount of \$1,000,000 per fiscal year. The Board of Supervisors increased the SPF to \$1,500,000 by Amendment Resolution 02-05A in June 2007.
 - 7.1 The SPF may be utilized by the Maricopa County Department of Transportation (MCDOT) to respond to proposed projects as determined appropriate by the Transportation Advisory Board (TAB).
 - 7.2 The SPF is administered by MCDOT, in accordance with the Board of Supervisors resolutions, through MCDOT Policy T 1103.
8. On November 15th, 2011 the Transportation Advisory Board (TAB) recommended that the Board of Supervisors fund the Project submitted by the City from the FY 2012 Special Project Fund (SPF) in the amount of \$80,000.

PURPOSE OF THE AGREEMENT

9. The purpose of this Agreement is to identify and define the responsibilities of the County and the City for the cost sharing, design, construction, construction management, rights-of-way acquisition, utility relocation, and annexation of the roadway.

TERMS OF THE AGREEMENT

10. **Responsibilities of the County:**
 - 10.1 The County shall cooperate with the City in the completion of the Project.
 - 10.2 The County shall assign a representative to serve on the Project team.
 - 10.3 The County shall review all design and construction documents provided by the City and provide comments to the City within 30 days after receiving documents for review.

- 10.4 The County shall issue permits at no cost to the City for work done on the Project within County jurisdiction, as applicable.
- 10.5 The County shall remit payment to the City within 30 days of receipt of an invoice from the City for \$80,000.
- 10.6 Upon approval of this Agreement by the County Board of Supervisors, the County shall notify the City that the Board approved the Agreement.

11. Responsibilities of the City:

- 11.1 The City shall act as the Lead Agency for the Project consistent with Peoria's standards to include, but not be limited to, the design, construction, construction management, rights-of-way acquisition, and utility relocations, as applicable.
- 11.2 The City shall obtain all necessary and required permits and approvals for work being done in County's jurisdiction.
- 11.3 The City shall provide the design and construction documents for the Project to the County for review at appropriate stages of development.
- 11.4 The City shall invoice the County for \$80,000 upon approval of this agreement by the Board of Supervisors.
- 11.5 The City shall deliver a copy of the Project bid award, when issued, to the County c/o Intergovernmental Relations Branch, 2901 West Durango Street, Phoenix, Arizona 85009.
- 11.6 The City shall provide for the County a final accounting of all funds upon completion of the Project.
- 11.7 The City shall return any remaining funds, above the total project cost, to the County upon completion of the Project.

GENERAL TERMS AND CONDITIONS

12. By entering into this Agreement, the Parties agree that to the extent permitted by law, each Party will indemnify and save the other Parties harmless, including any of the Parties' departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as

shall have been occasioned by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.

13. This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors and may be recorded with the Maricopa County Recorder, and remain in full force and effect until all stipulations previously indicated have been satisfied except that it may be amended upon written Agreement by all Parties. Any Party may terminate this Agreement upon furnishing the other Parties with a written notice at least thirty (30) days prior to the effective termination date.
14. This Agreement shall be subject to the provisions of A.R.S. §38-511.
15. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - 15.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer;
 - 15.2 That any breach of the warranty, shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract;
 - 15.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection;
 - 15.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
16. The Parties warrant that they do not have scrutinized business operations in Sudan or Iran, as prohibited by ARS sections 35-391.06 and 35-393.06, and further acknowledge that any contractor or subcontractor who is contracted by a party to perform work on the Project shall warrant that they do not have scrutinized business operations in Sudan or Iran.
17. Each Party in this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement are not suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
18. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
19. This Agreement does not create a duty or responsibility unless the intention to do so is

clearly and unambiguously stated in this Agreement.

20. This Agreement shall not be modified or extended except by written instrument adopted under the requirements for adopting a new agreement.
21. This Agreement does not grant authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.
22. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the Maricopa County Board of Supervisors and the Peoria City Council in such fiscal year.
23. This Agreement has been arrived at by negotiation and shall not be construed against any Party or against the Party who prepared the last draft.
24. Unless otherwise lawfully terminated by the Parties, this Agreement shall expire upon the completion and acceptance of the Project and the fulfillment of all terms of the Agreement.

End of Agreement - Signature Page Follows

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 5C

Date Prepared: March 7, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

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

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Intergovernmental Agreement, Maricopa County, 87th Avenue; Via Montoya to Williams Road Improvements

Purpose:

This is a request for City Council to approve the Intergovernmental Agreement (IGA) between Maricopa County and the City of Peoria for the construction of 87th Avenue improvements from Via Montoya to Williams Road, and acceptance by the City.

Background/Summary:

Under the County's Low Volume Road Program, the County plans to pave frequently traveled dirt roads to improve safety and ambient air quality. The County initiated a project to evaluate 87th Avenue between Deer Valley Road and Williams Road for dust mitigation improvements.

The County is planning to pave the remaining portions of 87th Avenue from Deer Valley Road to Williams Road for the purpose of dust mitigation. Currently, the majority of 87th Avenue is within County jurisdiction and a small section is within City jurisdiction.

- City jurisdiction – east side of 87th Avenue approximately 170 feet south of Via Montoya to Williams Road.
- County jurisdiction – west side of 87th Avenue from Deer Valley Road to Williams Road.
- County jurisdiction – east side of 87th Avenue from Deer Valley Road to approximately 170 feet south of Via Montoya

The County proposed that in return for constructing remaining portions of the 87th Avenue roadway improvements and reconstructing the City's existing pavement along the east side of 87th Avenue from approximately 170 feet south of Via Montoya to Williams Road, the City annex the west side of 87th Avenue from approximately 170 feet south of Via Montoya to Williams Road. Annexing this one-quarter mile of 87th Avenue will bring the entire roadway under the control of one agency.

In order to complete the improvements and annexation, the County and City must enter into an Intergovernmental Agreement. The purpose of this Agreement is to identify and define the responsibilities of the County and the City for the design, right-of-way acquisition, utility relocation, construction and construction management of the roadway. A summary of each agencies responsibility is provided below:

Maricopa County

- Act as the lead agency for the project to include design, right-of-way acquisition, utility relocation, construction and construction management.
- Apply for no-cost permits for project work within the city boundaries.
- Provide 100% of the funding for the project.
- Relocate overhead utilities underground, construct sidewalk, curb and gutter, adjust water meter boxes to new finished grades, and install decomposed granite on the west side of the roadway.
- Reconstruct the existing pavement on the east one-half street between approximately 170 feet south of Via Montoya to Williams Road.
- Prepare legal descriptions and exhibits for the annexation area.
- Provide the city with AutoCAD and TIFF images for as-builts of the above-ground and below-ground 87th Avenue improvements annexed by the City.

City of Peoria

- Review all design and construction documents provided by the County and provide comments to the County within 30 days after receiving documents for review.
- Issue the County no-cost permits for project work within the City boundaries
- Annex the portion of 87th Avenue within one (1) year of completion of the project.

According to Maricopa County, the project is scheduled for design in Fiscal Year 2012, and construction in Fiscal Year 2013.

Previous Actions:

- Staff reviewed the construction plans and specifications.
- The City Attorney's Office, Engineering, and Public Works-Utilities Departments reviewed the IGA.

Options:

A: Approve the IGA with the County for the construction of dust mitigation improvements and changing jurisdictional boundaries.

B: Deny approval of the IGA with the County for the construction of dust mitigation improvements and changing jurisdictional boundaries.

Staff's Recommendation:

Staff recommends approval of the IGA between Maricopa County and the City of Peoria for the purpose of identifying and defining the responsibilities of the County and the City for the design, right-of-way acquisition, utility relocation, construction and construction management of the roadway.

Fiscal Analysis:

- The total estimated construction cost is \$400,000 and all costs will be paid by the County.
- The City already maintains the east side of 87th Avenue from approximately 170 feet south of Via Montoya to Williams Road.
- The City will assume maintenance responsibility for the west side of 87th Avenue from approximately 170 feet south of Via Montoya to Williams Road. The estimated maintenance cost is \$10,000 per year.

Narrative:

Upon approval of this IGA by both agencies, the project team consisting of representatives from the City and the County will proceed with the completion of the plans and specifications and commence to the construction phase of the project. Following the completion of construction and final acceptance of the improvements, the City will proceed with the annexation of this section of 87th Avenue.

Exhibits:

Exhibit 1: Vicinity Map

Exhibit 2: Location Map

Exhibit 3: Intergovernmental Agreement

EXHIBIT 1



NOT TO SCALE

- DOVE VALLEY RD
- LONE MOUNTAIN RD
- MONTGOMERY RD
- DIXILETA DR
- PEAK VIEW RD
- DYNAMITE BL
- PINNACLE VISTA DR
- JOMAX RD
- YEARLING RD
- HAPPY VALLEY RD
- CALLE LEJOS
- PINNACLE PEAK RD
- WILLIAMS RD
- DEER VALLEY RD
- ROSE GARDEN LN
- BEARDSLEY RD
- UTOPIA RD
- UNION HILLS DR
- GROVERS AVE
- BELL RD
- PARADISE LN
- GREENWAY RD
- ACOMA DR
- THUNDERBIRD RD
- SWEETWATER AVE
- CACTUS RD
- CHOLLA ST
- PEORIA AVE
- MOUNTAIN VIEW RD
- OLIVE AVE
- BUTLER DR
- NORTHERN AVE

LEGEND

- 87th Avenue
-  Via Montoya to Williams Rd
EN00397

- 115TH AVE
- 111TH AVE
- 107TH AVE
- 103RD AVE
- 99TH AVE
- 95TH AVE
- 91ST AVE
- 87TH AVE
- 83RD AVE
- 79TH AVE
- 75TH AVE
- 71ST AVE



VICINITY MAP

EXHIBIT 2



87th Avenue; approximately 170 feet south of Via Montoya to Williams Rd West ½ street to be constructed by MCDOT and annexed by Peoria

87th Avenue; approximately 170 feet south of Williams Rd East ½ street to be re-constructed by MCDOT and continued to be maintained by the City

87TH AVE

87th Avenue; approximately 170 feet south of Via Montoya to Deer Valley Rd-Improvements to be constructed and maintained by MCDOT

DEER VALLEY RD

WILLIAMS RD

VIA MONTOYA



City of Peoria
87th Avenue
Via Montoya to Williams Rd
EN00397
Location Map



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

INTERGOVERNMENTAL AGREEMENT
BETWEEN MARICOPA COUNTY AND THE CITY OF PEORIA
FOR IMPROVEMENTS TO 87th AVENUE
FROM VIA MONTOYA TO WILLIAMS ROAD

(C-64-08- -2-01)
(TT403)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**County**), and the City of Peoria, a municipal corporation (**City**). The County and City are collectively referred to as the **Parties** or individually as a **Party**.

This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors.

STATUTORY AUTHORIZATION

1. A.R.S. §§ 11-251 and 28-6701, *et seq.*, authorize the County to layout, maintain, control and manage public roads within the County, and enter into this Agreement.
2. A.R.S. § 11-951, *et seq.*, authorizes public agencies to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. A.R.S. § 9-240 and §§ 9-276 *et seq.* authorize the City to layout and establish, regulate, and improve streets within the City.

BACKGROUND

4. The west side of 87th Avenue from approximately 170 feet south of Via Montoya to Williams Road (**Roadway**) is operated and maintained by the County. The east side of 87th Avenue from approximately 170 feet south of Via Montoya to Williams Road is in the City's jurisdiction.
5. The County initiated this Project to evaluate the Roadway for dust mitigation improvements. Under the Low Volume Road Program, the County plans to pave frequently traveled dirt roads to improve safety and ambient air quality.

6. The Project consists of the widening and paving of 87th Avenue from Via Montoya to Williams Road for the purpose of dust mitigation. Sidewalk will be installed on the west side of the Roadway. To improve drainage, curb and gutter will be installed on the west side of the Roadway.
7. The total estimated construction cost is \$400,000. This project is scheduled for design in Fiscal Year (FY) 2012 and construction in Fiscal Year (FY) 2013.

PURPOSE OF THE AGREEMENT

8. The purpose of this Agreement is to identify and define the responsibilities of the County and the City for the design, right-of-way acquisition, utility relocation, construction and construction management of the Roadway.

TERMS OF THE AGREEMENT

9. **The County agrees to:**

- 9.1 Act as the lead agency for the Project to include design, right-of-way acquisition, utility relocation, construction and construction management.
- 9.2 Apply for no-cost permits for Project work within the City boundaries.
- 9.3 Provide 100% of the funding for the Project.
- 9.4 Build the Roadway to the County's Urban Collector standards.
- 9.5 Relocate overhead utilities underground, construct sidewalk, curb and gutter, adjust water meter boxes to new finished grades, and install decomposed granite on the west side of the Roadway.
- 9.6 Reconstruct the existing pavement on the east one-half street between approximately 170 feet south of Via Montoya to William Road.
- 9.7 Prepare legal descriptions and exhibits for the annexation area.
- 9.8 Provide the City with AutoCAD and TIFF images for as-builts of the above-ground and below-ground 87th Avenue improvements annexed by the City.

10. **The City agrees to:**

- 10.1 Review all design and construction documents provided by the County and provide comments to the County within 30 days after receiving documents for review.
- 10.2 Issue the County no-cost permits for Project work within the City boundaries.
- 10.3 Annex the Roadway, that portion of 87th Avenue generally described as the E 40' of the N2 of the SW4 of Section 15 T4N, R1E within one (1) year of

completion of the Project.

GENERAL TERMS AND CONDITIONS

11. By entering into this Agreement, the Parties agree that to the extent permitted by law, each Party will indemnify and save the other Parties harmless, including any of the Parties' departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been occasioned by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.
12. This Agreement shall become effective as of the date it is approved by the Maricopa County Board of Supervisors and may be recorded with the Maricopa County Recorder, and remain in full force and effect until all stipulations previously indicated have been satisfied except that it may be amended upon written Agreement by all Parties. Any Party may terminate this Agreement upon furnishing the other Parties with a written notice at least thirty (30) days prior to the effective termination date.
13. This Agreement shall be subject to the provisions of A.R.S. § 38-511.
14. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - 14.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.
 - 14.2 That any breach of the warranty, shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
 - 14.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection.

- 14.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement
- 14.5 The Parties warrant that they do not have scrutinized business operations in Sudan or Iran, as prohibited by A.R.S. §§ 35-391.06 and 35-393.06, and further acknowledge that any contractor or subcontractor who is contracted by a party to perform work on the Project shall warrant that they do not have scrutinized business operations in Sudan or Iran.
15. Each Party to this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement are suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
16. Each of the following shall constitute a material breach of this Agreement and an event of default ("Default") hereunder: A Party's failure to observe or perform any of the material covenants, conditions or provisions of this Agreement to be observed or performed by that Party ("Defaulting Party"), where such failure shall continue for a period of thirty (30) days after the Defaulting Party receives written notice of such failure from the non-defaulting party provided, however, that such failure shall not be a Default if the Defaulting Party has commenced to cure the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless the Parties agree in writing that additional time is reasonably necessary under such circumstances to cure such default. In the event a Defaulting Party fails to perform any of its material obligations under this Agreement and is in Default pursuant to this Section, the non-defaulting party, at its option, may terminate this Agreement. Further, upon the occurrence of any Default and at any time thereafter, the non-defaulting party may, but shall not be required to, exercise any remedies now or hereafter available to it at law or in equity.
17. All notices herein required to be given in writing shall be sent to:

Maricopa County Department of Transportation
Attn: Intergovernmental Liaison
2901 W. Durango Street
Phoenix, AZ 85009

City of Peoria
Attn: City Engineer
9875 N. 85th Avenue
Peoria, AZ 85345

All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this Section. The addresses specified in this Section shall be that Party's address for delivery and mailing of notices. Either Party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is

shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier.

18. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
19. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
20. This Agreement does not grant authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.
21. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the Maricopa County Board of Supervisors and the Peoria City Council in such fiscal year. This Agreement may be terminated by any Party at the end of any fiscal year due to non-appropriation of funds.
22. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Neither Party shall assign its interest in this Agreement without the prior written consent of the other Party.
23. This Agreement and all Exhibits attached hereto sets forth all of the covenants, promises, agreements, conditions and understandings between the Parties hereto, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties other than as set forth herein, and those agreements which are executed contemporaneously herewith. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this Agreement. This Agreement cannot be modified or changed except by a written instrument executed by all of the Parties hereto. Each party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel.
24. The waiver by any Party of any right granted to it under this Agreement is not a waiver of any other right granted under this Agreement, nor may any waiver be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.
25. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.
26. Except as otherwise provided herein, all covenants, agreements, representations and warranties set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year.

27. Nothing contained in this Agreement shall create any partnership, joint venture or other agreement between the Parties hereto. Except as expressly provided herein, no term or provision of this Agreement is intended or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.
28. Time is of the essence hereof. Unless otherwise specified herein, the term "day" as used in this Agreement shall mean calendar day. If the date for performance of any obligation hereunder or the last day of any time period provided herein shall fall on a Saturday, Sunday or legal holiday, then said date for performance or time period shall expire at the close of business on the first day thereafter which is not a Saturday, Sunday or legal holiday.
29. Sections and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
30. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Faxed, copied and scanned signatures are acceptable as original signatures.
31. The Parties agree to execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such party pursuant to this Agreement.
32. The Parties hereby agree that the venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.
33. This Agreement shall be governed by the laws of the State of Arizona.
34. Unless otherwise lawfully terminated by the Parties, this Agreement expires upon completion and acceptance of the Project and fulfillment of all terms of the Agreement.

End of Agreement - Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement.

MARICOPA COUNTY

CITY OF PEORIA

Recommended by:

Recommended by:



2-27-2012

John B. Hauskins, P.E.
Transportation Director

Date

City Engineer

Date

Approved and Accepted:

Approved and Accepted:

By: _____
Max Wilson, Chairman
Board of Supervisors

Date

By: _____

Mayor

Date

Attest:

Attest:

By: _____
Clerk of the Board

Date

By: _____

Clerk

Date

APPROVAL OF COUNTY ATTORNEY AND CITY ATTORNEY

I hereby state that I have reviewed the proposed Intergovernmental Agreement, between the County of Maricopa, and the City of Peoria, and declare the Agreement to be in proper form and within the powers and authority granted to their respective governing bodies under the laws of the State of Arizona.

Deputy County Attorney

Date

City Attorney

Date

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 6C

Date Prepared: March 12, 2012

Council Meeting Date: April 3, 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, Traffic Signal Emergency Operations ITS Project

Purpose:

This is a request for City Council to approve an Intergovernmental Agreement (IGA) between the State of Arizona and the City of Peoria to have the Arizona Department of Transportation (ADOT) execute the construction of the Traffic Signal Emergency Operations Intelligent Transportation System (ITS) Project.

Background/Summary:

There are over one hundred signalized intersections within the City of Peoria. The traffic signals operate primarily on preprogrammed algorithms. While these cycles are timed to meet the expected traffic volumes, there are frequent traffic anomalies that can occur without warning. Accidents, special events, and holiday traffic are only a few of the challenges that can cause unexpected backups.

Several years ago the City began a program to install conduit and fiber optic cable along major arterials allowing the placement of Closed Circuit Television Cameras (CCTV) and for the traffic signal controllers to be connected to the Traffic Management Center (TMC). Once enough traffic signals are connected to the TMC, staff will be able to alter signal timing and manage unexpected backups in real time.

In FY2010, the City applied for and received federal Congestion Mitigation and Air Quality (CMAQ) funds in the amount of \$700,000 for the extension of the fiber optic network in the City and to install seven CCTV cameras. The original concept for the project funding was to use this federal money combined with \$500,000 of City funds to allow for a \$1,200,000 construction project. The specific project improvements include:

- Installing interconnect conduit and fiber optics cable along 75th Avenue from Peoria Avenue to Thunderbird Road and along Deer Valley Road from 91st Avenue to Lake Pleasant Parkway.
- Install CCTV cameras at seven intersections:
 - 95th Avenue/Olive Avenue
 - Loop 303/Lake Pleasant Parkway (with a wireless connection)
 - Loop 303/Happy Valley Parkway
 - 83rd Avenue/Lake Pleasant Parkway
 - Westwing Parkway/High Desert Drive
 - 107th Avenue/Northern Avenue
 - 91st Avenue/Peoria Avenue.

In February 2012, the City received an additional \$350,000 in CMAQ closeout funding. As a result the City's cost share for construction is anticipated to be zero based on a current estimated cost of \$1,050,000. The design was paid for with City funds, along with a \$10,000 design review fee paid to ADOT, which enabled the project to be accelerated, but the construction must be performed by an agency which is authorized to expend federal funds. ADOT is authorized to expend federal funds, and this IGA will allow ADOT to complete the construction of the project. A summary of the terms of the IGA is provided below:

The State Will:

- Upon execution of this Agreement, and prior to performing or authorizing any work, invoice the City for the State's design review fee, currently estimated at \$10,000
- Upon receipt of the design review fee, review and approve documents required by FHWA to qualify certain projects for and to receive federal funds, providing comments to the City as appropriate.
- Request the maximum programmed federal funds for the construction of this Project
- Upon approval by the FHWA, proceed to advertise for, receive and open bids, enter into contract with low bidder, administer the contract, and make all payments.

The City Will:

- Upon execution of this Agreement, designate the State as authorized agent for the City.
- Upon execution of this Agreement, prior to performing or authorizing any work, and within thirty (30) days of receipt of an invoice from the State, remit to the State the State's design review fee, currently estimated at \$10,000. (previously paid)
- Prepare and provide the design documents required for construction of the Project and incorporate comments from the State as appropriate.
- Be responsible for all costs in excess of the maximum amount of federal funds and for any costs ineligible for federal funds.

- Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction.
- 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.
- Grant the State, without charge, cost or additional documents and agreements, permission to enter City lands as required to conduct all construction and pre-construction activities related to the Project
- Be responsible for any and all costs attributable to any engineering change orders requested by the City not covered by federal funds.
- Provide for cost and proper maintenance of the Project
- Enter into an agreement with the design consultant which states that the design consultant shall provide professional post-design services as required and requested throughout and upon completion of the construction phase of the Project.
- Provide a set of as-built plans upon completion of the construction phase of the Project. An electronic version of the as-built plans shall be forwarded to Arizona Department of Transportation Local Government Section.
- Upon completion of the Project, agree to accept, maintain and assume full responsibility of the Project in writing.

Previous Actions:

April 2010 - City applied for and received CMAQ funding in the amount of \$700,000.

November 2010 – City paid \$10,000 to ADOT for design and review fees.

January 2011 - Executed a design contract with AMEC Infrastructure in the amount of \$135,000.

February 2012– City received additional CMAQ closeout funding in the amount of \$350,000.

Options:

A: Approve the IGA with the State of Arizona

B: Deny approval of the IGA. The result will be the cancellation of the project and the \$1,050,000 federal CMAQ funding will be in jeopardy. This will also delay the extension of the City's traffic management system.

Staff's Recommendation:

Staff recommends approval of the IGA with the State of Arizona.

Fiscal Analysis:

Payment for construction of this project is anticipated to be 100% federal CMAQ funds. There will be no City matching funds for the project up to \$1,050,000. Any overruns will be funded entirely by the City, but are not anticipated.

The estimated operating and maintenance costs associated with these improvements are approximately \$6,000 annually. This includes \$3,000 for maintenance of the cameras, and \$1,000 for maintenance of the fiber and conduit system, as well as \$1,000 for blue stake and \$1,000 for computer system maintenance associated with the new connections.

Narrative:

Approval of the agreement will allow the construction of the fiber communications system and the cameras to begin in the fall of 2012. The City will contract with the design consultant for post design services following execution of the IGA.

The IGA has been reviewed by the City Attorney's office.

Exhibit:

Exhibit 1: Intergovernmental Agreement

ADOT File No.: IGA/JPA 10-205I
AG Contract No.: P001 2011 003881
Project: ITS Project
Section: Various Locations
Federal Project No.: PEO-0(211)A
ADOT Project No.: SS948 01C
TIP/STIP No.: PEO11-702
Budget Source Item No.: Local

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF PEORIA

THIS AGREEMENT is entered into this date Please Do Not Enter, 2012, 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 are collectively 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 work proposed in this Agreement, hereinafter referred to as the 'Project,' includes a fiber communications system for the City to the traffic signals along Deer Valley Road (Lake Pleasant Parkway to 91st Avenue) and 75th Avenue (Peoria Avenue to Thunderbird Road). The Project will include all new fiber work which will be completed in new and existing conduits and pull boxes and CCTV cameras will be installed at seven (7) intersections. The intersections that will receive new CCTV's are 95th Avenue/Olive Avenue, Loop 303/Lake Pleasant Parkway (with a wireless connection), Loop 303/Happy Valley Parkway, 83rd Avenue/Lake Pleasant Parkway, Westwing Parkway/High Desert Drive, 107th Avenue/Northern Avenue and 91st Avenue/Peoria Avenue. The State shall advertise, bid and award the Project.
 4. Such Project lies within the boundary of the City and has been selected by the City; the survey of the Project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted by the State to the Federal Highway Administration (FHWA) for its approval.
 5. 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. The State shall be the designated agent for the City.
 6. The Parties shall perform their responsibilities consistent with this Agreement and any change or modification to the Project will only occur with the mutual written consent of both Parties.
-

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

The current Project costs are as follows:

ADOT Project No. SS948 01C

ADOT design review fee (SS948 01D)	\$ 10,000.00
Federal-aid funds @ 100% (capped)	\$ 1,050,000.00
*TOTAL Project Costs	\$ 1,060,000.00
Total Estimated City Funds**	\$ 10,000.00
Total Federal Funds	\$ 1,050,000.00

*(Includes CE and project contingencies)

** (Includes ADOT design review fee)

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. Upon execution of this Agreement, and prior to performing or authorizing **any** work, invoice the **City** for the State's design review fee, currently estimated at **\$10,000.00**. Once the Project costs have been finalized, the State will either invoice or reimburse the **City** for the difference between estimated and actual costs.

b. Upon receipt of the design review fee, review and approve documents required by FHWA to qualify certain projects for and to receive federal funds, providing comments to the City as appropriate. 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.

c. Request the maximum programmed federal funds for the construction of this Project. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

d. Upon approval by the FHWA, 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).

e. 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. Upon execution of this Agreement, prior to performing or authorizing **any** work, and within thirty (30) days of receipt of an invoice from the State, remit to the State the State's design review fee, currently estimated at **\$10,000.00**. Be responsible for any difference between the estimated and actual design review costs.

c. Prepare and provide the design documents required for construction of the Project and incorporate comments from the State as appropriate.

d. Be responsible for all costs in excess of the maximum amount of federal funds and for any costs ineligible for federal funds. Such costs shall be paid by the City within thirty (30) days of receipt of invoice from the State.

e. 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.

f. 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.

g. Grant the State, without charge, cost or additional documents and agreements, permission to enter City lands as required to conduct all construction and pre-construction activities related to the Project, including and without limitation, temporary construction easements, or temporary right-of-entry.

h. 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.

i. Provide for cost and proper maintenance of the Project, including all of the Project components.

j. Enter into an agreement with the design consultant which states that the design consultant shall provide professional post-design services as required and requested throughout and upon completion of the construction phase of the Project.

k. Provide a set of as-built plans upon completion of the construction phase of the Project. An electronic version of the as-built plans shall be forwarded to Arizona Department of Transportation Local Government Section.

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

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.

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. Financial questions at the City may be directed to Brent Mattingly, Director of Finance, City of Peoria, at (623) 773-7134.

4. The cost of 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 (Arizona Department of Transportation) (ADOT) warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the County will provide information that is requested by the State (ADOT) to enable the State (ADOT) 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 09-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

11. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment 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. 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.

13. 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

City of Peoria
Attn: Andy Granger
9875 N. 85th Avenue
Peoria, Arizona 85345
(623) 773-7602
Fax #

For City Financial Matters:
Tony Camp
9875 N. 85th Avenue
Peoria, AZ 85345
(623) 773-7211

14. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.

15. 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.

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

17. 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

STATE OF ARIZONA

Department of Transportation

By _____
BOB BARRETT
Mayor

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

ATTEST:

By _____
WANDA NELSON
City Clerk

IGA/JPA 10-205I

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 OF PEORIA, 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: 7C

Date Prepared: March 7, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

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

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Intergovernmental Agreement Amendment Two, State of Arizona, Beardsley Road Extension

Purpose:

This is a request for City Council to approve Amendment Two to the Intergovernmental Agreement (IGA) between the Arizona Department of Transportation (ADOT), Maricopa Association of Governments (MAG), City of Glendale (Glendale) and the City of Peoria (Peoria) for the maintenance of the Beardsley Road Extension, known as the Beardsley Connector.

Background/Summary:

Upon completion of the Beardsley Road Extension, ADOT, Glendale and Peoria representatives met to review/clarify maintenance responsibilities for the Beardsley Road Extension. Amendment Two is the resolution and clarification of the maintenance responsibilities of all parties.

The responsibilities of the City of Peoria include routine/normal maintenance to the road striping and ground mounted signs. ADOT will be responsible for major rehabilitation and reconstruction, if necessary, and electricity for lighting along the frontage road.

Previous Actions:

In July 2008, Mayor and Council approved an IGA with the State of Arizona, ADOT, City of Glendale and MAG for the design of the Beardsley Road Extension.

In July 2009, Mayor and Council approved an IGA with ADOT that approved federal funding for construction of the Beardsley Road Extension.

In April 2010, Mayor and Council approved Amendment One, which revised the total project cost and the parties funding responsibilities of the Beardsley Road Extension.

Options:

A: Approve Amendment Two to the Intergovernmental Agreement.

B: Deny Amendment Two to the Intergovernmental Agreement.

Staff's Recommendation:

Staff recommends the approval of Amendment Two to the Intergovernmental Agreement. The revisions to the agreement clearly define the roles and responsibilities of the maintenance of the Beardsley Road Extension.

Fiscal Analysis:

The IGA better defines the maintenance responsibilities of the City of Peoria, which do not significantly change. The major change in accordance with the agreement is that ADOT has agreed to pay the lighting costs for the frontage road from 75th Avenue to Union Hills Drive, and as a result the City's electricity costs are reduced.

Narrative:

Approval of Amendment Two will be the conclusion of the maintenance agreement with all parties. There is no anticipated additional actions related to the Beardsley Road Extension.

Exhibits:

Exhibit 1: Vicinity Map

Exhibit 2: Location Map

Exhibit 3: Intergovernmental Agreement Amendment Two



NOT TO SCALE

DOVE VALLEY RD

LONE MOUNTAIN RD

MONTGOMERY RD

DIXILETA DR

PEAK VIEW RD

DYNAMITE BL

PINNACLE VISTA DR

JOMAX RD

YEARLING RD

HAPPY VALLEY RD

CALLE LEJOS

PINNACLE PEAK RD

WILLIAMS RD

DEER VALLEY RD

ROSE GARDEN LN

BEARDSLEY RD

UTOPIA RD

UNION HILLS DR

GROVERS AVE

BELL RD

PARADISE LN

GREENWAY RD

ACOMA DR

THUNDERBIRD RD

SWEETWATER AVE

CACTUS RD

CHOLLA ST

PEORIA AVE

MOUNTAIN VIEW RD

OLIVE AVE

BUTLER DR

NORTHERN AVE

LEGEND

★ Beardsley Connector

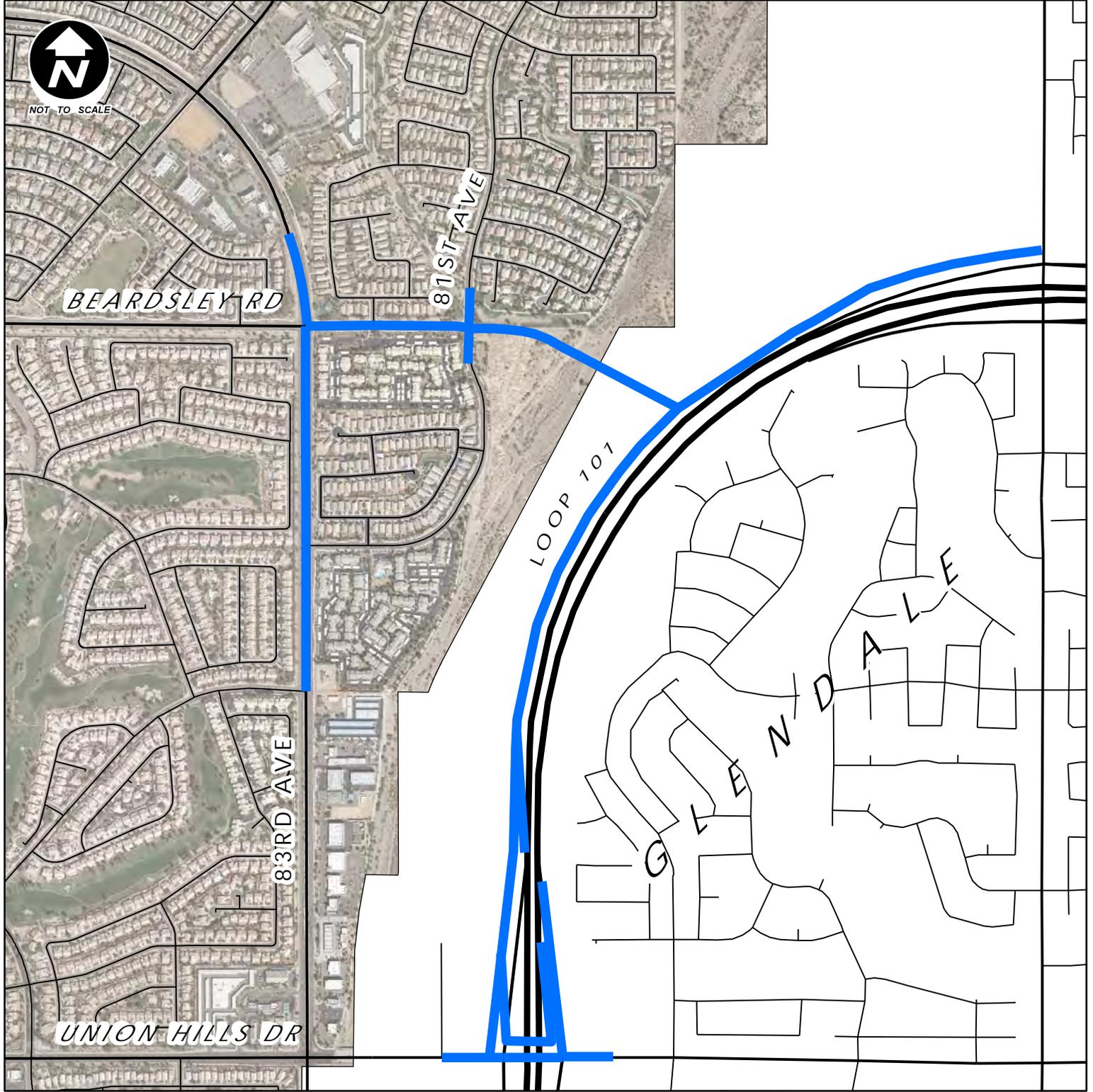
115TH AVE
111TH AVE
107TH AVE
103RD AVE
99TH AVE
95TH AVE
91ST AVE
87TH AVE
83RD AVE
79TH AVE
75TH AVE
71ST AVE



VICINITY MAP



NOT TO SCALE



LEGEND

-  Roadway Improvements

City of Peoria
 Beardsley Connector
 Location Map



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

ADOT File No.: IGA/JPA 07-103 I
AMENDMENT TWO
AG Contract No.: P001-2008-003955
Project: SR 101L, Union Hills Drive
Traffic Interchange Widening
TRACS No.: H717001D/01C
City Funded Project: Beardsley Connector
TRACS No.: H 707601D/01C
Section: 75th Avenue – Union Hills Drive
Budget Source Item No.: MAINTAGR

**AMENDMENT TWO
INTERGOVERNMENTAL AGREEMENT**

**C-6571-2
01/10/2012**

AMONG
THE STATE OF ARIZONA,
THE MARICOPA ASSOCIATION OF GOVERNMENTS,
THE CITY OF PEORIA
AND
THE CITY OF GLENDALE

THIS AGREEMENT is entered into this date **PLEASE DO NOT ENTER**, 2011, as **Amendment Two**, to **JPA No. 07-103I, Amendment One, A.G. Contract No.: P001-2008-003955, executed August 9th, 2010**, pursuant to the Arizona Revised Statutes § 11-951 through § 11-954, as amended, among the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State"), the MARICOPA ASSOCIATION OF GOVERNMENTS, acting by and through its REGIONAL COUNCIL ("MAG"), the CITY OF PEORIA, ARIZONA, acting by and through its CITY COUNCIL ("Peoria") and the CITY OF GLENDALE, acting by and through its MAYOR and CITY COUNCIL ("Glendale"), collectively referred to as the "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the State.
2. MAG is empowered pursuant to its Articles of Incorporation and By-Laws and by Arizona Revised Statutes § 28-7010 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of MAG.
3. Peoria is empowered by Arizona Revised Statutes § 11-952 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 Peoria.
4. Glendale is empowered by Arizona Revised Statute § 11-952 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 Glendale.

The original Agreement (JPA 07-103I) was amended in its entirety under Amendment One. Due to changed conditions relative to the maintenance responsibilities by the Parties, it is necessary to amend Amendment One to reflect said changed conditions.

THEREFORE, in consideration of the mutual understanding expressed herein among the Parties, changes to the maintenance responsibilities are incorporated as Amendment Two as follows:

III. SCOPE OF WORK

1. The State will:

Article 1 Paragraph p. is amended and replaced in full as follows:

Upon completion and acceptance of the Combined Project by the State, be responsible for:

- The electric power for street lighting along the newly constructed SR 101L frontage road from 75th Avenue traffic interchange to Union Hills Drive traffic interchange;
- The operation and maintenance of the frontage road lighting from 75th Avenue traffic interchange to the Union Hills Drive traffic interchange;
- The structural integrity of the U-Turn structure portion of the Combined Project, including entrance and exit ramps;
- The major rehabilitation of the frontage road from 75th Avenue Union Hills Drive traffic interchange;
- The routine/normal maintenance of the frontage road from 75th Avenue to the exit ramp (Beardsley Ramp C) back of gore, the area between the access control fence and the 12-foot inside lane of the frontage road, between the exit ramp (Beardsley Ramp C) back of gore and entrance ramp (Beardsley Ramp D) back of gore, the frontage road from the entrance ramp (Beardsley Ramp D) back of gore to Union Hills Drive;
- Maintaining the inside strip of the 12-foot inside lane of the frontage road as part of the routine maintenance referenced above;
- The signs on sign structures, sign structures;
- The concrete barrier, ADIEM end treatments;

as shown on Amended Exhibit F, attached hereto and made a part hereof.

3. Peoria will:

Article 3 Paragraph k. n. and p. are amended and replaced in full as follows:

k. Obtain a valid annual Permit from Glendale to maintain traffic control devices including traffic signs, pavement markings, street lights, and routine/normal street maintenance and emergency maintenance work provided by Peoria within Glendale's rights of way on Beardsley Road. Agree that any new construction or installation shall require a separate permit

n. Upon completion and acceptance of the Combined Project by the State and in accordance with the attached **Roles and Responsibilities**, be responsible for:

- The routine/normal street maintenance and emergency maintenance work for the southbound frontage road, excluding the frontage road from 75th Avenue to the exit ramp (Beardsley Ramp C) back of gore, the area between the access control fence and the 12-foot inside lane of the frontage road, between the exit ramp (Beardsley Ramp C) back of gore and entrance ramp (Beardsley Ramp D) back of gore, and the frontage road from the entrance ramp (Beardsley Ramp D) back of gore to Union Hills Drive;
- Maintaining pavement markings in routine/normal street maintenance area and lane lines on the frontage road;
- The routine/normal maintenance of traffic control devices and ground mounted traffic signs;

as shown on Amended Exhibit F, at no cost to Glendale.

p. Obtain clearance from Glendale when lane closures on Beardsley Road are required during the peak periods or when closures exceed one hour. Obtain a separate permit from Glendale if any new construction or installations are necessary.

4. Glendale will:

Article 4 Paragraph a. and c. are amended and replaced in full as follows:

a. Grant Peoria a permit to access Glendale's jurisdictional limits for the routine/normal maintenance and emergency maintenance work provided by Peoria within Glendale's jurisdiction and to maintain traffic control devices including traffic signs, pavement markings, and street lights, on Beardsley Road.

c. Permit Peoria to utilize traffic control for normal maintenance activities during non-peak periods of traffic operations on Beardsley Road. Glendale's permission will be required if lane closures are required during the peak periods or when closures exceed one hour. Agree any new construction or installation shall require a separate permit.

IV. MISCELLANEOUS PROVISIONS

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

Paragraph 5, 6, 7, 12 and 13 are updated to read as follows:

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

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, U.S.C. Volume 42, Sections 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 is incorporated herein by reference regarding "Non-Discrimination."

7. Non-Availability of Funds. Every payment obligation of State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract 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 or for any damages as a result of termination under this paragraph.

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.

12. 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 631E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of Peoria
Attn: City Engineer
9875 N. 85th Avenue
Peoria, Arizona 85345
(623) 773-7367
(623) 773-7211 Fax

Maricopa Association of Governments
Executive Director
302 North 1st Avenue, Suite 300
Phoenix, AZ 85003
(602) 254-6309 Fax

City of Glendale
Attn: City Manager
5850 W. Glendale Avenue
Glendale, Arizona 85301
(623) 930-2000
(623) 847-1399 Fax

with a copy to:
Glendale City Attorney
5850 W. Glendale Avenue
Glendale, Arizona 85301

For Financial Matters – Contact:
Arizona Department of Transportation
Financial Management Services
206 S. 17th Avenue, MD 200B
Phoenix, AZ 85017

For Maintenance Permit – Contact:
Arizona Department of Transportation
Phoenix Maintenance District Permits Office
2140 S 22nd Ave, Mail Drop PM00
Phoenix, AZ 85017

13. 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.

Paragraphs 14 and 15 are added to as follows:

14. The Cities, MAG and the State (Arizona Department of Transportation) (ADOT) warrants compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the Cities and MAG will provide information that is requested by the State (ADOT) to enable the State (ADOT) to comply with the requirements of the Act, as may be applicable.

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

EXCEPT AS AMENDED herein, all other terms and conditions of Amendment One remain in full force and effect.

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

CITY OF PEORIA

CITY OF GLENDALE

By _____
BOB BARRETT
Mayor

By _____
LEAH M. CORCORAN
Mayor

ATTEST:

ATTEST:

By _____
WANDA NELSON
City Clerk

By _____
PAMELA HANNA
City Clerk

MARICOPA ASSOCIATION OF GOVERNMENTS

STATE OF ARIZONA
Department of Transportation

By _____
DENNIS SMITH
Executive Director

By _____
ROBERT SAMOUR, P.E.
Deputy State Engineer, Valley Transportation

IGA/JPA 07-103 I
AMENDMENT TWO

ATTORNEY APPROVAL FORM FOR THE CITY OF GLENDALE

I have reviewed the above referenced Intergovernmental Agreement between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, INTERMODEL DIVISION,, the MARICOPA ASSOCIATION OF GOVERNMENTS, the CITY OF PEORIA and the CITY OF GLENDALE, 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 11 day of January, 2017

A solid black rectangular box redacting the signature of the City Attorney.

City Attorney

IGA/JPA 07-103 I
AMENDMENT TWO

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, INTERMODEL DIVISION, the MARICOPA ASSOCIATION OF GOVERNMENTS, the CITY OF PEORIA and the CITY OF GLENDALE, 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 _____, 2011

City Attorney

**IGA/JPA 07-103 I
AMENDMENT TWO**

**ATTORNEY APPROVAL FORM FOR
MARICOPA ASSOCIATION OF GOVERNMENTS**

I have reviewed the above referenced Intergovernmental Agreement between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, INTERMODEL DIVISION, the MARICOPA ASSOCIATION OF GOVERNMENTS, the CITY OF PEORIA and the CITY OF GLENDALE, 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 MAG REGIONAL COUNCIL 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 _____, 2011

MAG Regional Council Attorney

ADOT Maintains New WB Off Ramp (Beardsley Ramp C) from SR 101L to Frontage Road Back of Gore and Frontage Road from 75th Ave to Frontage Road Back of Gore

Peoria is Responsible for Routine / Minor Maintenance of the Frontage Road Including All Lane Lines with Exception of the ADOT Maintenance Area Described Below

75th Ave

Beardsley Rd

81st Ave

Peoria is Responsible for Maintenance of the Beardsley Road

ADOT Maintains the Area Between the Access Control Fence and the 12 Foot Inside Lane of the Frontage Road from the Back of Gore of the WB SR 101L Off Ramp (Beardsley Ramp C) to the Back of Gore of the U-Turn Ramp (Beardsley Ramp D)

ADOT Maintains New U-Turn Structure and Ramps Beginning at Frontage Road Back of Gore and Frontage Road from U-Turn Ramp (Beardsley Ramp D) Back of Gore to Union Hills Drive

ADOT Maintains New SB On Ramp (Beardsley Ramp A) from the Frontage Road Back of Gore to SR 101L

ADOT Will Maintain the Union Hills TI to the Access Control Limits on East / West Legs

Union Hills Dr

SR 101L

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 8C

Date Prepared: March 12, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

FROM: Chris Jacques, AICP, Planning and Community Development Director

THROUGH: Susan Daluddung, AICP, Deputy City Manager

SUBJECT: Reallocation of HOME Partnership Funds

Purpose:

This is a request for City Council to reallocate \$363,267 of U.S. Department of Housing and Urban Development (HUD) HOME Program funding to Habitat for Humanity Central Arizona (HFHCAZ) for the purpose of completing affordable housing projects within the City of Peoria.

Background/Summary:

The City, through competitive processes managed by the Planning and Community Development Department, has partnered with Habitat for Humanity Central Arizona (HFHCAZ) to facilitate the HOME Program. The HOME Program is a HUD initiative utilized in the City mainly for the regulatorily eligible purposes of property acquisition, rehabilitation, resale and/or new construction of affordable housing. HFHCAZ is a not-for-profit developer that provides attractive, energy efficient and affordable homes to HUD qualified low and moderate income families.

The City of Peoria has \$363,267 of unobligated HOME funding from a previously awarded project which was recently cancelled by both the City and the Maricopa HOME Consortium, of which the City is a member. The cancelled project was for construction of a small multi-family complex near Old Town. This project was cancelled because the not-for-profit developer was unable to comply with contractual expenditure deadlines. After cancellation, Staff placed this available funding back into consideration for a new project through the recent Council Not-for-Profit Review and Housing Subcommittee competitive funding process. Funding which is not contractually obligated has a high risk of being reallocated to another jurisdiction by either the HOME Consortium or HUD.

Habitat for Humanity of Central Arizona (HFHCAZ) proposes to place needed infrastructure and construct at least five (5) homes on previously purchased vacant lots within the City. If approved by City Council, Staff will initiate a developer agreement with HFHCAZ to prioritize the completion of three (3) existing single family attached home sites in the Varney Neighborhood on a site known as the Kirby Subdivision. Through prior grant funding, Habitat purchased a large parcel of land in the Varney Neighborhood on Kirby Street with the anticipation of developing six (6) single family attached houses on the property. To date, this project is 50% completed. Award of this funding would complete the construction on the final three (3)

homes by the end of FY13. Completion of this project would serve the dual purpose of affording home ownership and completing a neighborhood improvement and construction project for the Varney Neighborhood. Remaining funding would be utilized to construct two (2) homes on previously purchased lots in the Old Town neighborhood. It should be noted that Habitat for Humanity Central Arizona was the only agency that submitted an application for this funding.

Previous Actions:

February 29, 2012 Council Not-for-Profit Review and Housing Subcommittee recommendation to provide reallocated HOME Program funding to Habitat for Humanity Central Arizona.

Options:

A: Approve the HOME Program funding reallocation as recommended by the Council Not-for-Profit Review and Housing Subcommittee; or

B: Deny the reallocation of funds and return available funding to the Maricopa County HOME Consortium for distribution to another participating jurisdiction; or

C: Hold an additional competitive application process for the available funding.

Staff's Recommendation:

Staff recommends that City Council approve the reallocation of HOME funds as recommended by the Council Not-for-Profit Review and Housing Subcommittee and further authorize Staff to enter into a development agreement with Habitat for Humanity Central Arizona (HFHCAZ) to finalize development of three (3) existing home sites in the Varney neighborhood and develop two(2) additional homes in the Old Town neighborhood for conveyance to HUD eligible low and moderate income families.

Fiscal Analysis:

There is no fiscal impact to the City. Funding is pass-through funding from HUD.

Narrative:

The attached Exhibit provides a visualization of the status of the Kirby Subdivision. The three (3) homes which have been completed, and are now occupied, are marked on the diagram.

Exhibit(s):

Exhibit 1: Kirby Subdivision Property Diagram

Contact Name and Number:

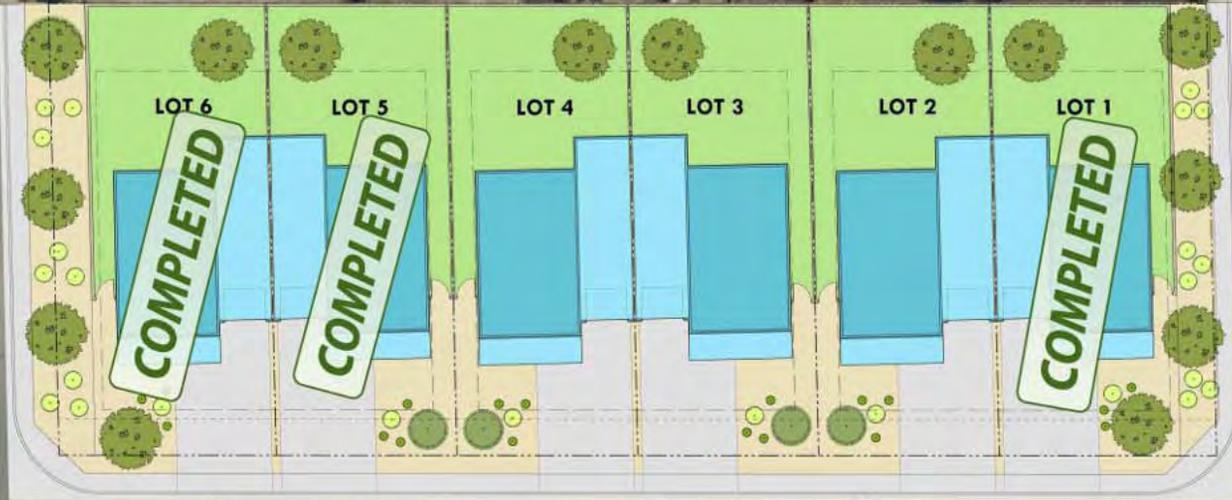
Carin Imig - Neighborhood and Revitalization Administrator, x7381



Kirby Subdivision

A 6 UNIT SUBDIVISION BY HABITAT FOR HUMANITY CENTRAL ARIZONA

Cherry Hills Drive



79th Drive

Kirby Street

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 9C

Date Prepared: March 21, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

FROM: Katie Gregory, Interim Management and Budget Director

THROUGH: Susan Thorpe, Deputy City Manager

SUBJECT: Adoption of Notice of Intention to Possibly Adjust Rates and Establish Date of Public Hearing

Purpose:

This is a request for the City Council to consider possible action to adopt a Notice of Intention to adjust the City's water, wastewater and reclaimed water rates and establish May 15, 2012 as the date for a public hearing on the proposed adjustments. The City must comply with Arizona statute, which establishes a notification process when a municipality is considering the adjustment of water and wastewater rates.

Background/Summary:

City staff is recommending that water, wastewater and reclaimed water rates for FY2013 be adjusted, effective July 1, 2012. Water and Wastewater rate adjustments must be formally adopted in a public hearing 30 days prior to their effective date. Staff is recommending that the Public Hearing be held at the May 15, 2012 Council Meeting. At least 30 days prior to the public hearing date, the City must adopt a Notice of Intention to adjust rates and notice the public on the date of the public hearing.

Adopting the Notice of Intention will satisfy the initial requirements of ARS §9-511.10 for notifying the public of the City's intention to consider water and wastewater rate adjustments at a future public hearing. Following the adoption of the Notice of Intention, the City is required to publish the Notice in local newspapers at least 20 days in advance of the public hearing. City staff plan to publish this notice on both April 13th and April 20th to comply with this requirement.

Previous Actions:

On February 7, 2012, at the Council Study Session, staff provided the Council with information on the rate projections for FY2013-2016 and discussed various rate scenarios and policy issues that might impact the funding of the Water and Wastewater Enterprise funds.

On January 17, 2012, at the Council Study Session, staff provided the Council with information on the rate projections for FY2013 – FY2016 and provided information on the Water and Wastewater budgets, programs and relevant policy issues under consideration.

On January 3, 2012, at the Council Study Session, staff provided the Council with background information on the rate projections for FY2013 – FY2016.

On October 28, 2011, at the Council Budget Workshop, staff provided the Council with an update of the rate projections for FY2013 - FY2016.

On May 17, 2011, as part of the FY2012 Tentative Budget Adoption, Council approved a combined Water/Wastewater rate increase of 4.6% for FY2012, resulting in a \$2.67 net utility bill impact to the average residential customer.

On April 7, 2011, at a Council Budget Study Session, staff shared the final results of the Water/Wastewater Rate Analysis conducted by Raftelis Financial Consultants, Inc. At that time, staff informed Council of the need for multi-year rate adjustments to meet both operational funding requirements and financial goals.

Options:

A: The Council can approve the Notice of Intention item, which will continue the process of considering the adoption of water and wastewater rates. The public hearing planned for May 15, 2012 will continue, at which time the Council will formally vote to adopt the recommended rates and make them effective July 1, 2012.

B: The Council may elect to not approve the Notice of Intention item, which will delay and/or stop the adoption of water and wastewater rates planned to be effective on July 1, 2012. A public hearing would need to be rescheduled to a later date, delaying the effective date.

Staff's Recommendation:

Staff recommends that the Council adopt the Notice of Intention at the April 3, 2012 Council Meeting and establish May 15, 2012 as the date for the public hearing to consider adoption of the recommended rates.

Fiscal Analysis:

There is no fiscal impact to the adoption of this item.

Narrative:

Staff and the Council have invested a considerable amount of time in discussing potential rate adjustment scenarios. Staff understood that the Council reached a consensus approach for the FY2013 rate adjustments and plans to bring these alternatives forward for additional consideration and final Council direction at the March 27, 2012 Council Budget Study Session. Following this direction, staff will bring rate adjustments for formal consideration and adoption at the May 15, 2012 Public Hearing. As part of the rate adoption process, the City must properly notice the public on the City's intent to consider rate adjustments and the date on which they will be considered. Adoption of this Notice of Intent will maintain the City's compliance with these requirements.

Contact Name and Number: Katie Gregory, Interim Management and Budget Director
773-7364

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 10C

Date Prepared: February 22, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager
FROM: Scott Whyte, Economic Development Services Director
THROUGH: Susan J. Daluddung, Deputy City Manager
SUBJECT: Deeds and Easements, Various Locations

Purpose:

This is a request for City Council to adopt a Resolution accepting Deeds and Easements for various Real Property interests acquired by the City. The deeds and easements have been recorded by the Maricopa County Recorder's Office and this process will formally accept them into the system.

Background/Summary:

The City of Peoria periodically acquires a number of property interests including deeds, roadway dedications and various types of easements. All documents are reviewed for accuracy and recorded. A Resolution to accept these documents has been prepared, which lists each document by recording number and provides information related to each so the property interest to be accepted can be identified.

Previous Actions:

This is an ongoing process which occurs when we have acquired a number of real property interests.

Options:

- A: Approve the adoption of the Resolution accepting Deeds and Easements into our system.
- B: Deny adoption of the Resolution that formally accepts the Deeds and Easements into our system, resulting in the City not having an official record of what has been transferred to the City through recordation in the Maricopa County Recorder's office.

Staff's Recommendation:

Staff recommends the adoption of a Resolution accepting Deeds and Easements for various Real Property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office to ensure completeness of the process.

Fiscal Analysis:

There is no fiscal impact to the City.

Narrative:

This Resolution includes Real Property interests acquired since the adoption of the previous acceptance resolution. The acceptance of the Resolution by City Council would bring the deeds and easements into our system and is the final step in the process.

Exhibit(s):

Exhibit 1: Resolution

Contact Name and Number: Rebecca Zook, Site Development Manager, (623) 773-7589

RESOLUTION NO. 2012-38

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.

WHEREAS, the real estate interests hereinafter referenced have been conveyed to the City of Peoria;

WHEREAS, it is to the advantage of the City of Peoria to accept said real property interests; and

WHEREAS, the City has determined that acquisition of these property interests is in the interest of the public health, safety and welfare.

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. That the following real property interests are hereby accepted by the City of Peoria and referenced by the recording number issued by the Maricopa County Recorder's Office.

Midfirst Bank

SEC 75th Avenue & Cactus Road

Midfirst Bank

ROADWAY AND PEORIA MUNICIPAL UTILITY EASEMENT

Maricopa County Recording No. 2012-0137997

(DEED12-001)

Resolution No. 2012-38
Acceptance of Deeds and Easements
April 3, 2012
Page: 2

SECTION 2. Public Easement and Land Rights

That the Mayor and Council accept the deeds and public easements transferred to the City of Peoria as described herein.

SECTION 3. Recording Authorized

That the City Clerk shall record the original of this Resolution with the Maricopa County Recorder's Office.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 3rd day of April 2012.

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: 11C

Date Prepared: February 29, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

FROM: Scott Whyte, Economic Development Services Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Replat, Sonoran Mountain Ranch Parcel 15, Sonoran Mountain Ranch Road and 75th Ave alignment (Project No. R050049B)

Purpose:

This is a request for City Council to approve a Replat of Sonoran Mountain Ranch Parcel 15, located on Sonoran Mountain Ranch Road east of the 75th Avenue alignment, 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. All civil and landscape/irrigation plans must be approved by the City of Peoria (City) prior to recordation of the Replat.
2. An approval of design from the City Engineering Department for the necessary improvements in accordance with the City Subdivision Regulations, as determined by the City Engineer, must be obtained prior to recording the Replat.
3. The developer must provide a financial assurance in the amount agreed upon by the City Engineer and an Agreement to Install for construction of the infrastructure improvements in accordance with the City Subdivision Regulations, prior to recordation of the Replat.
4. 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 the side lot lines of four residential lots within a platted subdivision. This development is within the City's water\sewer service area.

Previous Actions:

The Final Plat was approved by the City and recorded in November 2005.

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 developer from constructing the desired product on these lots.

B: The other option would be to formally approve the Replat and allow this parcel to be developed.

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 developer to move forward in developing this property.

Exhibit(s):

Exhibit 1: Replat

Exhibit 2: Vicinity Map

Contact Name and Number:

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

NOTES

1. THE SUBDIVISION IS SUBJECT TO LANDSCAPE MANAGEMENT DISTRICT AND
2. NO CONSTRUCTION OF ANY KIND SHALL BE CONDUCTED ON PLOTS WITHIN THE
3. THE CITY OF PHOENIX SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE
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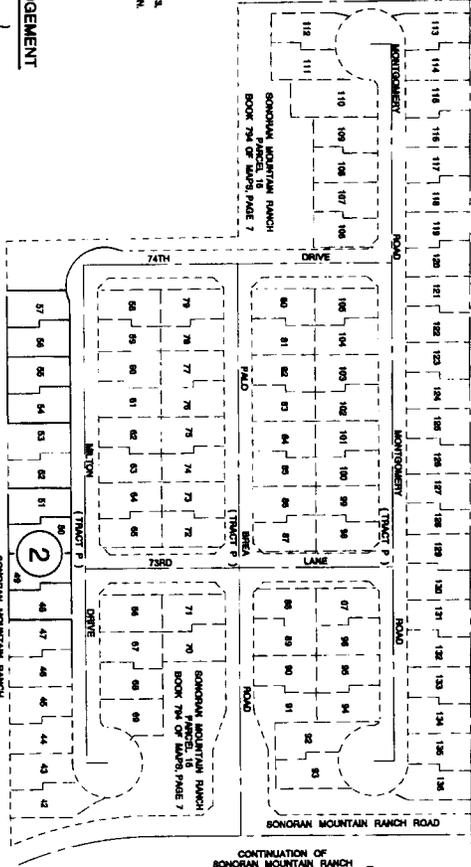
"SONORAN MOUNTAIN RANCH PARCEL 15"

REPLAT FOR

LOTS 47 THROUGH 91 AND 94 THROUGH 97 INCLUDING WITHIN THE PART OF LOT 9 OF SONORAN MOUNTAIN RANCH PARCEL 15 IN SECTION 28, T11N, R10E, S1, PHASE 7, SONORAN MOUNTAIN RANCH PARCEL 15, EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.

ENGINEER
 GUY L. WATSON, INC.
 1000 N. CENTRAL AVENUE, SUITE 100
 PHOENIX, ARIZONA 85004
 GUY L. WATSON, P.E.
 REGISTERED PROFESSIONAL ENGINEER
 LICENSE NO. 12345

OWNER
 SONORAN MOUNTAIN RANCH LLC
 1000 N. CENTRAL AVENUE, SUITE 100
 PHOENIX, ARIZONA 85004
 GUY L. WATSON, P.E.
 REGISTERED PROFESSIONAL ENGINEER
 LICENSE NO. 12345



CONTINUATION OF SONORAN MOUNTAIN RANCH PARCEL 15 BOOK 784 OF MAPS, PAGE 7 N.T.S.

LEGAL DESCRIPTION
 LOT 9 OF SECTION 28, T11N, R10E, S1, PHASE 7, SONORAN MOUNTAIN RANCH PARCEL 15, EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.

ACKNOWLEDGEMENT

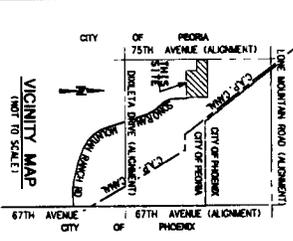
STATE OF ARIZONA)
 COUNTY OF MARICOPA)
 I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing instrument was acknowledged before me on this 15th day of February, 2012, by the persons whose names are subscribed to the same, and that the same is a true and correct copy of the original instrument as the same appears from the records of my office.

ACKNOWLEDGEMENT

STATE OF ARIZONA)
 COUNTY OF MARICOPA)
 I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing instrument was acknowledged before me on this 15th day of February, 2012, by the persons whose names are subscribed to the same, and that the same is a true and correct copy of the original instrument as the same appears from the records of my office.

ACKNOWLEDGEMENT

STATE OF ARIZONA)
 COUNTY OF MARICOPA)
 I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing instrument was acknowledged before me on this 15th day of February, 2012, by the persons whose names are subscribed to the same, and that the same is a true and correct copy of the original instrument as the same appears from the records of my office.



DEDICATION

STATE OF ARIZONA)
 COUNTY OF MARICOPA)
 I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing instrument was acknowledged before me on this 15th day of February, 2012, by the persons whose names are subscribed to the same, and that the same is a true and correct copy of the original instrument as the same appears from the records of my office.

FLOOD ZONE INFORMATION

DATE OF FLOOD ZONE MAP: 2/16/12
 DATE OF FLOOD ZONE MAP: 2/16/12
 DATE OF FLOOD ZONE MAP: 2/16/12

BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS SOUTH SENSITIVE EAST ALONG THE MERIDIAN LINE OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.

REPLAT NARRATIVE

LOTTES BOUND ON THE REPLAT HAVE ADJUSTED SIZE LOT LINES ALONG THE USE SURVEY EASEMENT LINE.

APPROVAL

APPROVED BY THE MAYOR AND CITY COUNCIL OF PHOENIX, ARIZONA, ON THIS _____ DAY OF _____, 2012.

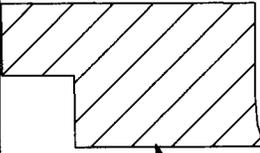
GROSS AREA = 0.776 AC.

SHEET 1 OF 2

CITY OF PEORIA

75TH AVENUE (ALIGNMENT)

LONE MOUNTAIN ROAD (ALIGNMENT)



THIS SITE

DIXILETA DRIVE (ALIGNMENT)



VICINITY MAP

(NOT TO SCALE)

C.A.P. CANAL

SONORAN

MOUNTAIN RANCH RD

CITY OF PHOENIX

CITY OF PEORIA

C.A.P.

CANAL

67TH AVENUE (ALIGNMENT)

67TH AVENUE

PHOENIX

OF

CITY

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 12C

Date Prepared: February 29, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager

FROM: Scott Whyte, Economic Development Services Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Final Plat, Sweetwater Ridge, Thunderbird Road and 75th Avenue (Project No. R110041, also referred to as Southwest Kidney)

Purpose:

This is a request for City Council to approve a Final Plat of Sweetwater Ridge, located on Thunderbird Road east of 75th Avenue, and authorize the Mayor and City Clerk to sign and record the Final Plat with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil and landscape/irrigation plans must be approved by the City of Peoria (City) prior to recordation of the Final Plat.
2. An approval of design from the City Engineering Department for the necessary improvements in accordance with the City Subdivision Regulations, as determined by the City Engineer, must be obtained prior to recording the Final Plat.
3. The developer must provide a financial assurance in the amount agreed upon by the City Engineer and an Agreement to Install for construction of the infrastructure improvements in accordance with the City Subdivision Regulations, prior to recordation of the Final Plat.
4. In the event that the Final Plat is not recorded within 60 days of Council approval, the Final Plat 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 Final Plat is to combine two lots into one for commercial use known as Sweetwater Ridge. The combing of the lots is required in order to develop the parcel into a

single entity for both taxation and commercialization purposes. The requirement for elimination of the dividing lot line stems from the International Building Code and the need to achieve setback requirements from parcel lines. This development is located within the City's water\sewer service area.

Previous Actions:

The site plan was reviewed by the City and completed in September 2011.

Options:

A: The Final Plat has been approved through the Economic Development Services Department. An option would be to not accept the proposed Final Plat; although it should be noted that not approving the Final Plat will prevent the Developer from developing this land.

B: The other option would be to formally approve the Final Plat and allow this parcel to be developed.

Staff's Recommendation:

Staff recommends the approval and subsequent recordation of the attached Final Plat.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Final Plat.

Narrative:

The acceptance of this Final Plat by City Council will allow the developer to move forward in developing this property.

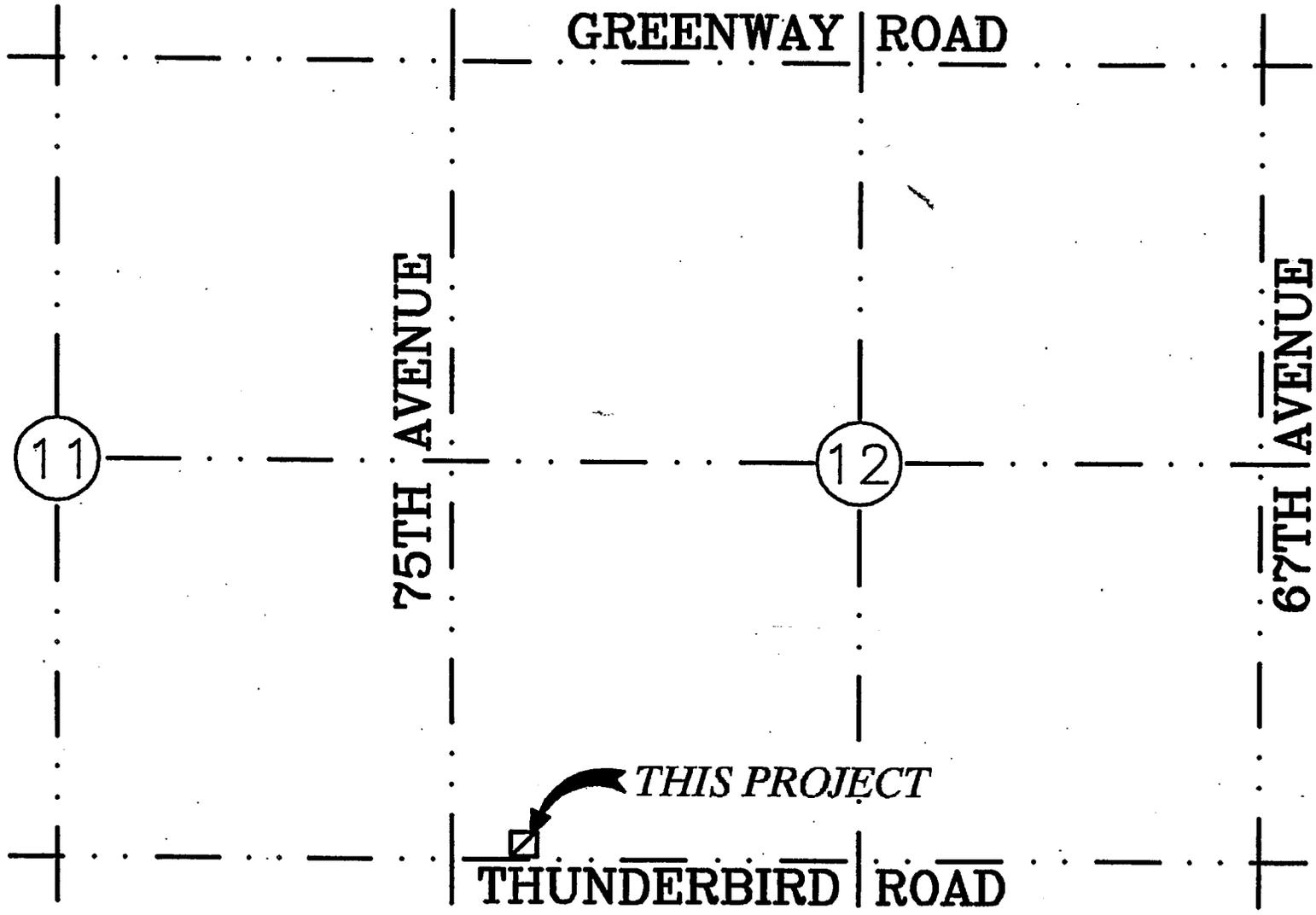
Exhibit(s):

Exhibit 1: Final Plat

Exhibit 2: Vicinity Map

Contact Name and Number:

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



GREENWAY ROAD

75TH AVENUE

67TH AVENUE

11

12

THIS PROJECT

THUNDERBIRD ROAD

VICINITY MAP

N.T.S.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 13R

Date Prepared: March 20, 2012

Council Meeting Date: April 03, 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:

Qi He Chen, Agent for Ooka Hibachi Grill, has applied for a New Restaurant Liquor License (Series 12) located at 10649 N. Arrowhead Fountain Drive Building B.

Previous Actions:

October 2006, the Mayor and Council recommended approval to Arizona State Liquor Board for Native New Yorker for a new restaurant liquor license (Series 12) at 10649 N. Arrowhead Fountain Drive Building B.

Options:

A: Recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Ooka Hibachi Grill, located at 10649 N. Arrowhead Fountain Drive Building B, Qi He Chen, Applicant, LL#20004350.

B: Recommend denial to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Ooka Hibachi Grill, located at 10649 N. Arrowhead Fountain Drive Building B, Qi He Chen, Applicant, LL#20004350.

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 Ooka Hibachi Grill, located at 10649 N. Arrowhead Fountain Drive Building B, Qi He Chen, Applicant, LL#20004350.

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.

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):

12078980

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

2. Total fees attached:

Department Use Only \$

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. CHEN QI HE P1039784

2. Corp./Partnership/L.L.C.: OOKA HIBACHI GRILL LLC B1047362

3. Business Name: OOKA HIBACHI GRILL B1047363

4. Principal Street Location 16049 N. Arrowhead Fountain Dr. Building B, Peoria, Maricopa AZ 85382

5. Business Phone: Pending Daytime Contact:

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

7. Mailing Address:

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

DEPARTMENT USE ONLY

Fees: 100 Application Interim Permit Agent Change Club 24 Finger Prints \$ 124.00 TOTAL OF ALL FEES

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

Accepted by: [Signature] Date: 1-5-12 Lic. # 12078980

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 _____, _____ Year
 Day Month Year

My commission expires on: _____

 (Signature of NOTARY PUBLIC)

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
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						

(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#

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.: OOKA HIBACHI GRILL LLC
 (Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: Jan 03 2012 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: L1709597-3 Date authorized to do business in AZ: Jan 05 2012
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
CHEN	Qi	HE	Managing Member	[REDACTED]	[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
CHEN	Qi	HE	100%	Same as above	

(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 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: Name _____
(Exactly as it appears on license) Address _____
2. New Business: Name _____
(Physical Street Location) 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) horizontal 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))



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 _____
Address _____
City, State, Zip _____
- 4a. Monthly rental/lease rate \$ _____ What is the remaining length of the lease ___ yrs. ___ mos.
- 4b. What is the penalty if the lease is not fulfilled? \$ _____ 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:
CHEN QI HE 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 included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

[Signature]
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 inspection visit www.azliquor.gov and click on the "Information" tab.

[Initials]
applicants initials

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

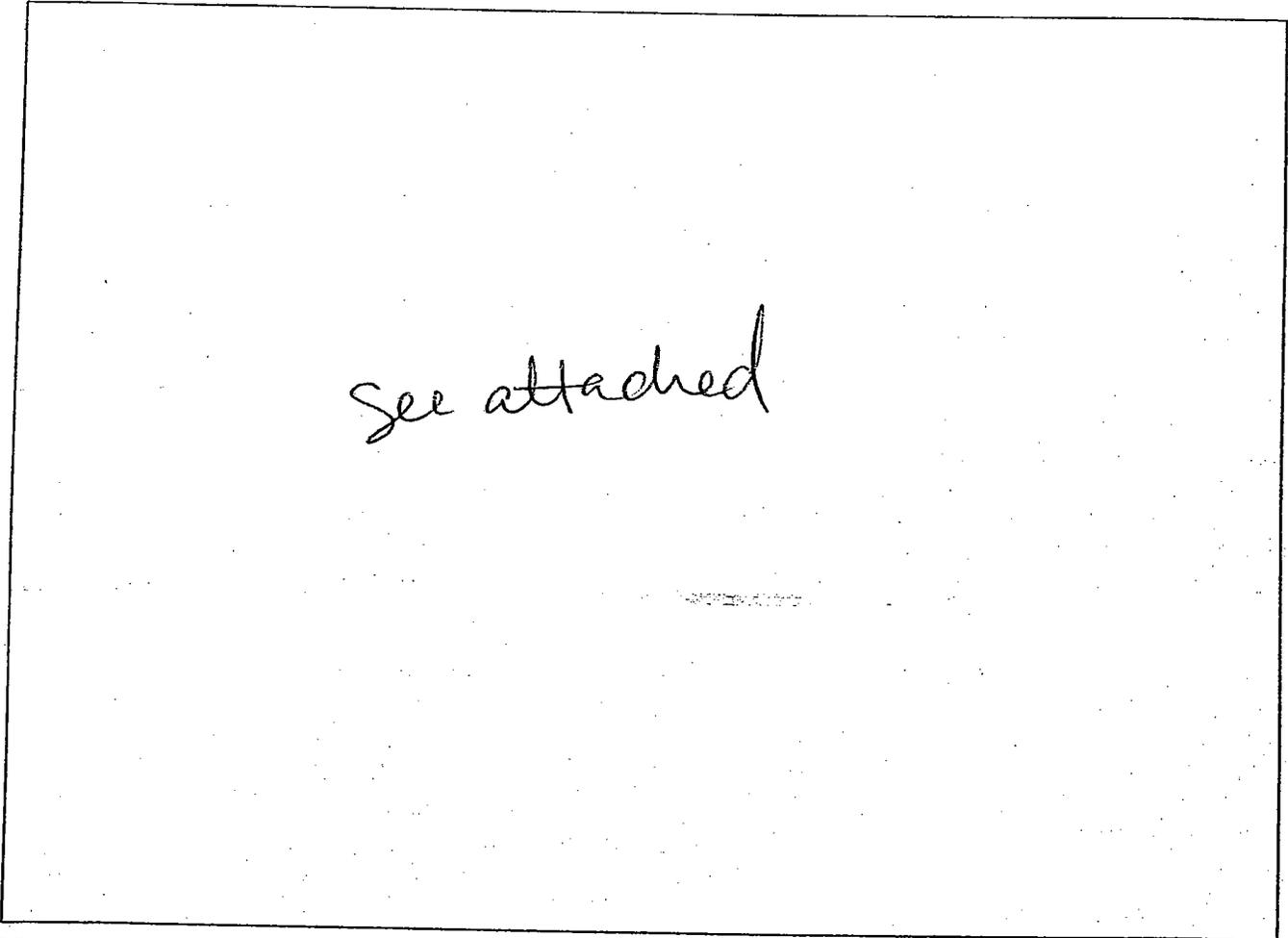
1. Check ALL boxes that apply to your business:
 Entrances/Exits Liquor storage areas Patio: Contiguous
 Service windows Drive-in windows Non Contiguous
2. Is your licensed premises currently closed due to construction, renovation, or redesign? YES NO
 If yes, what is your estimated opening date? 04/01/2012
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, windows or service windows, or increase or decrease to the square footage after submitting this initial drawing.

[Initials]
applicants initials

...in the 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, Qi He Chen, 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.

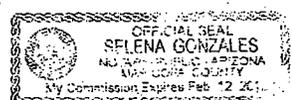
X [Redacted Signature]
(signature of applicant listed in Section 4, Question 1)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this 5 Day of January 2012 Year

[Redacted Signature]
signature of NOTARY PUBLIC

My commission expires on: 122 2012
Day Month Year



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/MOTEL/W/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

- B. Employee Log (A.R.S. §4-119)
 - C. Employee time cards (actual document used to sign in and out each work day)
 - D. Payroll records for all employees showing hours worked each week and hourly wages
13. Off-site Catering Records (must be complete and separate from restaurant records)

- A. All documents which support the income derived from the sale of food off the license premises.
- B. All documents which support purchases made for food to be sold off the licensed premises.
- C. All coupons/specials/discounts

The sophistication of record keeping varies from establishment to establishment. Regardless of each licensee's accounting methods, the amount of gross revenue derived from the sale of food and liquor must be substantially documented.

REVOCAION OF YOUR LIQUOR LICENSE MAY OCCUR IF YOU FAIL TO COMPLY WITH A.R.S. §4-210(A)7 AND A.R.S. §4-205.02(G).

A.R.S. §4-210(A)7

The licensee fails to keep for two years and make available to the department upon reasonable request all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of spirituous liquors and, in the case of a restaurant or hotel-motel licensee, all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of food.

A.R.S. §4-205.02(G)

For the purpose of this section:

1. "Restaurant" means an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.
2. "Gross revenue" means the revenue derived from all sales of food and spirituous liquor on the licensed premises, regardless of whether the sales of spirituous liquor are made under a restaurant license issued pursuant to this section or under any other license that has been issued for the premises pursuant to this article.

I, (print licensee name):

Chen

Qi

He

Last

First

Middle

have read and fully understand all aspects of this statement.

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this

X

(Signature of Licensee)

5 day of January, 2012

Day Month Year

My commission Expires on:

12-2-2012

Day Month Year

(Signature of NOTARY PUBLIC)

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



12 JAN 5 4 41 PM '07

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

P1039784 SG.
02.765

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 DLLS. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY DLCS. 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 #

12078980

(If the location is currently licensed)

1. Check appropriate box → Controlling Person (Complete Questions 1-19) Agent (Complete Questions 1-19) Manager (Only) (Complete All Questions except # 14, 14a & 21)

Controlling Person or Agent must complete #21 for a Manager. Controlling Person or Agent must complete # 21

2. Name: CHEN Qi HE Date of Birth: [REDACTED]
Last First Middle (NOT a Public Record)

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

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

5. Marital Status Single Married Divorced Widowed Daytime Contact Phone: [REDACTED]

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

7. You are a bona fide resident of what state? Arizona If Arizona, date of residency: 2000

8. Telephone number to contact you during business hours for any questions regarding this document. 602 [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: OOKA HIBACHI GRILL LLC Premises Phone: Pending

11. [REDACTED] 49 N. Arrowhead Fountain Dr Building B
Street Address (Do not use PO Box #) City Peoria County Maricopa Zip 85382

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)
4/2005	CURRENT	Manager	[REDACTED]
			[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
1/2003	CURRENT	OWN	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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?
If you answered YES, how many hrs/day? _____, and **answer #14a below**. If NO, skip to #15. YES NO
- 14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must provide proof)
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license. YES NO
- 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. _____ have you EVER held ownership, been a controlling person, been an officer, member, director or manager of any other liquor license in this or any other state? YES NO

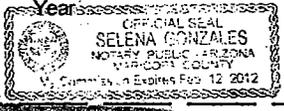
If any answer to questions 15 through 18 is "YES" YOU MUST DETACH A SIGNATURE PAGE.
 Give complete details including dates, agencies involved, and dispositions.
SUBSTANTIVE CHANGES TO THIS APPLICATION WILL NOT BE ACCEPTED.

20. Di He Chen, 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 [Signature]
 (Signature of Applicant)

State of Arizona County of Maricopa
 The foregoing instrument was acknowledged before me this
2 day of January, 2012
[Signature]
 (Signature of NOTARY PUBLIC)

My commission expires on: 12-2012
 Day Month Year



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.

x [Signature]
 (Signature of Controlling Person or Agent (circle one))

 Print Name

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

 (Signature of NOTARY PUBLIC)

My commission expires on: _____
 Day Month Year

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 14R

Date Prepared: March 5, 2012

Council Meeting Date: April 3, 2012

TO: Carl Swenson, City Manager
FROM: Chris Jacques, AICP, Planning & Community Development Director
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
SUBJECT: TA 11-0006 – Political Signs

Purpose:

This is a request for City Council to hold a Public Hearing to consider a request to amend Section 14-34, *Signs*, of the Zoning Ordinance with respect to political signs; and to adopt a Resolution creating a “Sports Complex Commercial Tourism Zone” for the purposes of restricting the placement of political signs in the City-owned right-of-way around the Sports Complex.

Background/Summary:

This is a City-initiated amendment to update regulations regarding political signs in order to comply with changes in state law brought forth by House Bill 2500, approved in April 2011. The key consequence of this legislation is that cities, towns, and counties are not permitted to remove political signs that are located within the public right-of-way during prescribed periods of time before and after an election; provided the sign meets certain criteria such as maximum size and are not placed in locations deemed “hazardous to public safety.” Additionally, House Bill 2500 allows for the creation of exclusionary zones for tourism purposes, whereby the City can restrict the placement of political signs from the public right-of-way.

The City’s Sign Code (Article 14-34 of the Zoning Ordinance) currently prohibits nearly all signs, including Political Signs, from being placed in the public right-of-way. The proposed changes will (1) conform to the updated A.R.S. regulations, allowing political signs in the City-owned right-of-ways as required, (2) restrict the placement of such signs where they could pose safety hazards, and (3) regulate the height, size, and timing of placement of political signs. In addition to the Zoning Ordinance amendment, a Resolution creating an exclusionary zone to restrict placement of political signs in the right of way around the Sports Complex (“Sports Complex Commercial Tourism Zone”) is proposed.

Previous Actions:

This Zoning Ordinance amendment, Case TA 11-0006, and Resolution creating a “Sports Complex Commercial Tourism Zone” were discussed by the Sustainable Development Subcommittee on November 2, 2011. The matter was then brought to the full City Council at a Study Session on November 15, 2011. Staff took the Council’s direction to revise the amendment and it was then presented to the Planning & Zoning Commission on March 1, 2012 where the Commission voted unanimously (6-0) to recommend approval of Case TA 11-0006 to the City Council. *Please refer to the attached Planning and Zoning Commission Staff Report (March 1, 2012) for a discussion of Council and Subcommittee deliberation relating to this case.*

Options:

- A:** Approve as recommended; or
- B:** Approve with modifications; or
- C:** Deny; or
- D:** Continue action to a date certain or indefinitely; or
- E:** Remand to the Planning & Zoning Commission for further consideration.

Staff’s Recommendation:

Staff recommends the City Council concur with the Planning & Zoning Commission’s unanimous March 1, 2012 recommendation to approve an Ordinance amending Article 14-34 of the Zoning Ordinance as identified in Case TA 11-0006. In addition, staff recommends City Council adopt a Resolution creating a “Sports Complex Commercial Tourism Zone” for the purposes of restricting the placement of political signs in the City-owned right-of-way around the Sports Complex.

Fiscal Analysis:

This request is not expected to have immediate budgetary impacts to the City.

Narrative:

No further action would be necessary should the City Council take action to adopt the proposed Ordinance and Resolution. The City Council could choose to adopt an additional right-of-way signage exclusionary zone by resolution in the future.

Exhibit(s):

Exhibit 1: March 1, 2012 Planning & Zoning Commission Staff Report with Exhibits

Exhibit 2: Ordinance

Exhibit 3: Sports Complex Commercial Tourism Zone Resolution

Contact Name and Number:

Melissa Sigmund, Planner, x7603



ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 11-0006
DATE: March 1, 2012
AGENDA ITEM: 5R

Applicant: City of Peoria
Request: Amend Article 14-34, *Signs* of the Zoning Ordinance in regards to political signs, and a general clean up of references to specific staff positions.
Support / Opposition: As of the date of this printing, Staff has not received any written or verbal support or opposition to this request.
Recommendation: **Approve** as requested.

BACKGROUND

1. This is a City-initiated amendment to Article 14-34, *Signs* of the Zoning Ordinance to update regulations regarding Political Signs in order to comply with changes in state law. House Bill 2500, passed by the State Legislature and signed by Governor Brewer in April 2011, amended Section 16-1019 of the Arizona Revised Statutes (A.R.S.) relating to Political Signs. The key consequence of this legislation is that cities, towns, and counties are not permitted to remove political signs that are located within the public right-of-way during prescribed periods of time before and after an election and provided the sign meets certain criteria such as maximum size and is not placed in locations deemed "hazardous to public safety."
2. The City's Sign Code (Article 14-34 of the Zoning Ordinance) currently prohibits nearly all signs, including Political Signs, from being placed in the public right-of-way. The proposed changes will conform to the updated A.R.S. regulations, allowing political signs in the City-owned right-of-ways as required, and still strive to promote public safety by identifying those areas where such signs are prohibited in order to prevent hazardous situations.

3. Additionally, House Bill 2500 allows for the creation of exclusionary zones for tourism purposes, whereby the City can restrict the placement of political signs from the public right-of-way. Such a zone could be created through a City Council approved Resolution. A proposed Resolution creating an exclusionary zone around the Sports Complex (“Sports Complex Commercial Tourism Zone”) will be presented to City Council for their adoption along with this text amendment case.
4. Minor housekeeping changes are also proposed to Article 14-34 in order to replace references to a non-existent City staff position (e.g. “Building Safety Director”) with more general references.

DISCUSSION AND ANALYSIS

Sustainable Development Subcommittee

5. On November 2, 2011, the proposed amendment was presented to the City Council Sustainable Development Subcommittee. As part of the discussion, staff identified several potential policy items for specific consideration as outlined below:
 - **Sign-Free Zones:** HB2500 permits the City to establish up to two (2) Political Sign free zones (within the public right-of-way). Collectively, the areas cannot exceed 3 square miles and must be areas that contain a predominance of “commercial tourism, resort and hotel uses.” The Subcommittee opined that the Sports Complex District (~ 1 square mile) was an appropriate political-sign free area based on the criteria, and that staff should pursue designation as such.
 - **Sign Area:** HB2500 prohibits removal of Political Signs within the public right-of-way provided that they not exceed 16 square feet in area in residential districts and 32 square feet in area non-residential districts. Currently, the Sign Code allows Political Signs on private property in *any* zoning district provided they not exceed 32 square feet in area. To minimize potential confusion and promote visual aesthetics, staff had proposed that signs in residential districts (ROW + private property) be limited to 16 square feet and signs in non-residential districts (ROW + private property) be limited to 32 square feet. The Subcommittee concurred with the staff proposal.
 - **Prohibit on structures owned by the City:** The current Sign Code prohibits political signs on structures, buildings and traffic control devices owned by the City. The new law maintains the ability of the city to prohibit Political Signs on City structures. The Subcommittee opined that the current prohibition was appropriate.
 - **Sign Placement Timeframe:** Currently, the Sign Code does not specify a maximum period of time for placing Political Signs prior to a vote or

proposition. HB2500 specifies that the City cannot remove Political Signs in the public right-of-way within 60 days prior to the primary election and ending fifteen days after the general election. This was discussed by the Subcommittee. Although support was voiced for a maximum period of time prior to a vote, there was *not* consensus in terms of what that period should be, 60 day and 90 day timeframes were discussed.

City Council Study Session

6. On November 15, 2011, the proposed amendment was discussed at a City Council Study Session. Staff briefed the City Council on discussion points from the Sustainable Development Subcommittee and sought input and direction from the full Council on the proposed amendment.

Sports Complex Political Sign-Free Zone (ROW)

7. There was a consensus among the City Council in favor of the creation of a “political sign-free right-of-way zone” in the Sports Complex area. Accordingly, as part of the amendment, staff has prepared a Resolution for City Council adoption of a “political sign-free right of way zone” for the Sports Complex area.

Sign Placement Timeframe

8. HB2500 prevents the removal of political signs in the public right-of-way within a protected window of 60 days before a primary election [date] and ending 15 days after the general election. A candidate not advancing to the general election would have a protected window 15 days after the primary election date. There was consensus among the Council that the protected window prior to a election date should be broadened to 90 days, effectively 60 days before early voting by mail occurs.

Prohibited Locations

9. There was consensus among the Council in favor of continuing the prohibition of political signs on property (except ROW), structures, buildings and traffic control devices or safety barriers owned by the City. Additionally, political signs may be located in the public right-of-way provided they are not hazardous to public safety or located in a manner that interferes with the requirements of the American Disabilities Act (ADA).

Sign Area

10. There was a split in the Council’s preference for regulations on maximum sign sizes. Three Councilmembers supported a 16 square foot maximum size for political signs located in residential zoning districts, three of the members supported the allowance of larger 32 square foot signs in residential zoning districts, and one Councilmember was undecided on the matter. One issue of concern was the existence of high-trafficked roadways located in residential

zoning districts, where the right-of-way may be flanked with block walls as opposed to homes and the perception that these areas *feel* less residential in character than perhaps a typical neighborhood street lined with front yards.

11. On the matter of political signs in residential zoning districts, staff has developed language that would allow the larger 32 square foot signs, with exceptions for right-of-ways along roads designated as Local or Rural in residential zoning districts, where 16 square feet would be the maximum size for political signs. Roadways classified as Local or Rural are intended to provide access to abutting properties, including individual residences. Local and Rural roadways generally accommodate lower traffic volumes and serve shorter trips than higher functional classes of roadways such as arterials and collectors.
12. The majority of single family residences are accessed by Local or Rural roadways. Single family homes in residential developments typically front onto these low speed roads. The intent of this regulation is to prevent situations where the placement of large 32 square foot political signs (in the public right-of-way) may not be appropriate, such as in residential neighborhoods, while allowing signs of this sign to be located along high-trafficked collector and arterial roads that may be in residential zoning districts, but have a much less residential feel. Collector and arterial roads often frame the edges of a residential neighborhood, but do not generally provide direct access to the residences adjacent to them. More commonly, perimeter block walls of the adjacent neighborhood will face the collector and arterial roads. Therefore, allowing larger signs along the right-of-ways of collector and arterial roads, regardless of zoning district, will be less likely to have detrimental impacts to residential neighborhoods.

Proposed Changes

Section 14-38-8 Sign Types and Requirements

13. The definition of Political Signs has been updated to align with the definition provided under HB2500.
14. Regulations have been amended to allow Political Signs in public right-of-ways, per HB2500, with exceptions for designated sign-free zones, locations where the signs would pose a safety hazard, as well as within medians and traffic circles.
15. The allowed timing of installation of political signs has been changed to 90 days before an election date, with removal 15 days after the election date. Signs for candidates advancing from a primary election may remain in place in the interim until 15 days after the general election takes place.

16. Maximum allowable sign area has been maintained at 32 square feet, except for signs located in the public right-of-ways in residential zoning districts along Local or Rural roads, where the maximum size is 16 square feet.
17. Removal of signs by the City will be done in accordance with State Statutes. HB2500 specifies procedures for contacting the party responsible for the sign's installation and provides a waiting period before a sign may be removed unless it is an eminent danger to the public.

Multiple sections

18. References to "Building Safety Director", a staff position that no longer exists, have been removed and replaced with more general relevant references such as "the Department" or "the City."

Administrative Procedure

Public Notice

19. Public notice of this proposed amendment to the Zoning Ordinance was provided in the manner prescribed under Article 14-39. The time, date, and place of the hearing has been published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing.

FINDINGS AND RECOMMENDATION

20. Based on the following findings:
 - The proposed amendment revises the Zoning Ordinance to conform with updated regulations of the Arizona Revised Statutes.
 - The amendment updates the language of the Zoning Ordinance to maintain its relevancy and concurrency with other City ordinances and standards.
 - Upon review of the application, the Planning Manager has determined that a Proposition 207 waiver is not required for this application.

It is recommended that the Planning and Zoning Commission take the following action:

Recommend to the Mayor and City Council approval of Case TA 11-0006, a request to amend the Peoria Zoning Ordinance as contained in Exhibit A.

ATTACHMENTS

Exhibit A: Proposed changes to Article 14-34
(deletions/additions shown as ~~strike~~/underline)

Exhibit B: House Bill 2500

Exhibit C: Summary of Amendment

Prepared by: Melissa Sigmund
Planner

EXHIBIT A

Proposed changes to Article 14-34 Signs

(Amended by Ord. Nos. 2011-01, 2012-XX)

14-34-8 SIGN TYPES AND REQUIREMENTS

A. Permitted Signs. The following signs are permitted, subject to the criteria listed under each sign:

7. Construction Sign. A sign which identifies the parties included in an "in-process" construction project.

- a. Such signs shall only be displayed on the actual construction site;
- b. Such sign shall not exceed eight (8) feet in height nor thirty-two (32) square feet in area;
- c. All such signs shall be removed prior to the issuance of a Certificate of Occupancy for the site;
- d. All construction signs shall be constructed and installed to standards defined by the Department Building Safety Director.
- e. No sign permit required, but such signs shall be constructed to standards required for a permanent sign as described by the Arizona Sign Association.

29. Political Signs. Except as otherwise provided by ARS §16-1019, a temporary sign used to support or oppose advertise the candidacy of an individual, or ballot proposition/issue, or to encourage citizens to vote. Such signs shall be permitted within all zoning districts. (Ord. No. 97-40) (Ord. No. 2012-XX)

- a. Such signs may be located within the City right-of-way, ~~but shall not be located~~ provided they are not:
 - i. hazardous to public safety; within the public right-of-way;
 - ii. within a required visibility triangle, or clear vision area;
 - iii. within a roadway median or traffic circle.
 - iv. affixed to any City-owned utility pole, traffic control device or safety barrier; or on City property or buildings.
 - v. located in a manner that interferes with the requirements of the Americans with Disabilities Act;
 - vi. located in any designated commercial tourism, commercial resort, and hotel sign-free zones designated by the City Council pursuant to ARS §16-1019; and

vii. otherwise in violation of a requirement found in this Section.(Ord. No. 04-02)(Ord. No. 2012-XX)

b. Except as provided herein, such signs shall not be located on City-owned property, buildings, or structures;

~~b-c.~~ Such signs shall be located on property with the owner's permission. It shall be presumed the property owner has given permission unless the property owner notifies the city otherwise; (Ord. No. 04-02)

~~e-d.~~ Such signs shall be installed no sooner than ninety (90) days prior to a primary election day. For candidates not advancing to the general election, such signs shall be removed within fifteen (15) days after the primary election day. For candidates advancing to the general election, such signs shall be removed within fifteen (15) days following the general election day. removed within ten (10) days following the voting day of the election to which they refer. Signs for successful primary election candidates, eligible for the general election, may remain after the primary election;

~~d.~~ Such signs shall not be placed on or affixed to any utility pole, traffic control device or safety barrier;

e. Such signs shall not exceed thirty-two (32) square feet in area or eight (8') feet in height, except for signs located in the right-of-way along Local or Rural classified roadways in residential zoning districts, which shall not exceed 16 square feet in area or eight (8) feet in height. When free-standing, political signs shall be constructed to Arizona Sign Association Sign Standards;

f. Such signs shall contain the name and telephone number of the candidate or campaign committee contact person. The person, party or parties responsible for the erection or distribution of any such signs shall be jointly and severally liable for the removal of such signs;

g. Such signs which are deemed to be unsafe, defective or which create an immediate hazard to persons or property or are not in compliance with the provisions of this section shall be declared to be a public nuisance and shall be subject to ~~immediate~~ removal by the City in accordance with state statutes; (Ord. No. 04-02, Ord. No. 2012-XX)

h. No sign permit required.

14-34-17 PERMIT APPLICATION AND EXPIRATION

A. To obtain a permit the applicant shall file an application with the ~~Department Building Safety Director~~ on a form furnished by the City. The application shall contain the location by street and number and name of the proposed sign contractor, with address, state license, city tax number and phone number. All applications shall be accompanied by the written consent of the owners, lessee, agent or trustee in charge of the property on which the sign is proposed.

- 1 B. Every permit issued by the ~~City Building Safety Director~~ under the provisions of this
2 code shall expire by limitation and become null and void, if the work authorized by
3 such permit is not completed within one hundred eighty (180) days from the date of
4 issuance of such permit. Before such work can be allowed, a new permit shall be
5 first obtained, and the fee therefore shall be one-half of the amount required for a
6 new permit for such work, provided no changes have been made or will be made in
7 the original plans and specifications for such work.
8
- 9 C. The ~~City Building Safety Director~~ may, in writing, suspend, or revoke a permit issued
10 under provisions of this Section whenever the permit is issued on the basis of a
11 material omission or misstatement of fact, or in violation of any ordinance or any
12 provisions of this Article.
13
- 14 D. No permit for a sign issued by the City shall be deemed to constitute permission or
15 authorization to maintain a public or private nuisance nor shall any permit issued
16 hereunder constitute a defense in an action to abate a nuisance.
17
- 18 E. The ~~City Building Safety Director~~ may issue use permits for the display of temporary
19 on-site signs, upon a written form prescribing the terms and conditions of such
20 display specified in this Code. Said form must be signed by the Planning and Zoning
21 Director or designated agent.
22
- 23 F. Sign permits for new or additional signs shall not be issued for a specified user if
24 such user displays unlawful signs. Sign permits for new or additional signs shall not
25 be issued for a specified user if such user displays nonconforming signs, provided
26 the area of the nonconforming signs exceeds the total maximum allowable sign area
27 for a particular user or center. If the nonconforming signs do not exceed the total
28 maximum sign area for a particular user or center, then a sign permit may be issued
29 for a new sign subject to the provisions of this Article 14-34. A sign permit may be
30 issued to a specific user providing the terms thereof specify modification or removal
31 of nonconforming signs, as provided above, resulting in conformity with the
32 provisions of this Article 14-34.
33
- 34 G. Signs for which a permit has been issued shall not be erected, installed, maintained,
35 or displayed except in complete conformance with all terms, requirements, and
36 stipulations specified by the approved plans and permit.
37
38

14-34-18 PERMIT FEES

- 39
- 40
- 41 A. Before issuing any sign permit required by this Article, the Planning and Zoning
42 Department shall collect an application fee in an amount as provided in this code,
43 together with all fees required by the Uniform Building Code as adopted by the City
44 of Peoria. (Ord. No. 91-12)
45
- 46 B. In addition to the above fees, electrical wiring fees shall be required as specified by
47 the City Code ~~Building Safety Director~~. (Ord. No. 91-12)
48
- 49 C. An owner of a nonconforming sign which has been removed or brought into
50 conformance shall not be required to pay a permit fee in order to obtain a permit for a
51 replacement sign.

1
2 D. Work for which a permit is required by this Article shall not be commenced before an
3 application has been filed and a permit issued. Where work is commenced without
4 an application being filed and a permit issued, the fees provided in this section shall
5 be charged. However, the payment of such fees shall not relieve any person(s) from
6 complying fully with the requirements of this Article in the execution of the work or
7 from any penalties provided in this code. (Ord. No. 91-12)
8
9

10 **14-34-19 REQUIREMENT OF PLANS**

11
12 Copies of plans and specifications, ~~the number to be determined by the Building Safety~~
13 ~~Director~~, shall be submitted with the application for each sign in excess of four (4)
14 square feet in size that requires a permit, ~~regulated by this Article 14-34~~. One copy
15 shall be returned to the applicant at the time the permit is granted. Such plans shall
16 show complete details about the size of the sign, the method of attachment or support,
17 locations and materials to be used and the name, address, and profession of the person
18 designing plans and specifications of such sign. Plans for supports for any sign subject
19 to excessive stresses as determined by the ~~City Building Safety Director~~ shall be
20 accompanied by structural surfaces and other members of an existing building to which
21 the sign is to be attached so that the ~~City Building Safety Director~~ may certify that the
22 supports or other surfaces are in good condition and are adequately strong to support
23 the load, including the proposed sign.
24
25

26 **14-34-20 REVOCATION OF PERMITS**

27
28 The ~~City Building Safety Director~~ shall have the authority to revoke any permit which has
29 been granted when it is ~~he has~~ determined that the sign authorized by the permit has
30 been constructed or is being maintained in violation of the permit.
31

- 32 A. Notice of the ~~City's Building Safety Director's~~ decision to revoke a sign permit shall
33 be served upon the holder of the permit (a) by delivering personally a copy of the
34 notice to the holder of the permit, or to one of its officers, or (b) by leaving a copy of
35 the notice with any person in charge of the premises, or (c) in the event that no such
36 person can be found on the premises, by affixing a copy of the notice in a
37 conspicuous position at an entrance to the premises and by the certified mailing of
38 another copy of the notice to the last known post office address of the holder of the
39 permit.
40
41 B. The holder of the permit may appeal to the Board of Adjustment the decision ~~of the~~
42 ~~Building Safety Director~~ to revoke the permit. This appeal must be made within
43 twenty-one (21) days from the date when the notice was served.
44
45 C. If no appeal has been made by the end of the twenty-one (21) day appeal period,
46 then the permit is revoked and the sign is illegal. The ~~City Building Safety Director~~
47 then shall initiate the procedure for the removal of the illegal sign.
48
49

50 **14-34-21 REMOVAL OF SIGNS**

1 ~~Except as otherwise provided in this ordinance,~~ the ~~City Building Safety Director~~ is
2 hereby authorized to require removal of any illegal sign as defined by this ordinance.

3
4 A. ~~Before bringing an action to require removal of any illegal sign, the Building Safety~~
5 ~~Director shall give written notice to the owner of the sign or the owner of the~~
6 ~~premises on which sign is located shall be provided with written notice.~~ The notice
7 shall state the reasons and grounds for removal, specifying the deficiencies or
8 defects in such sign with reasonable definiteness, and the violations charged; such
9 notice shall specify what repairs, if any, will make such an installation conform to the
10 requirements of this ordinance, and specify that the sign must be removed or made
11 to conform with the provisions of this Article 14-34 within the notice period provided
12 below. Service of notice shall be made as prescribed in Section 14-34-20A of this
13 Article 14-34.

14
15 1. Notice Period.

- 16
17 a. The notice period for permanent signs shall be ten (10) days.
18
19 b. The notice period for temporary signs shall be forty-eight (48) hours.

20
21 2. Re-erection of any sign or substantially similar sign on the same premises after a
22 non-compliance notice has been issued shall be deemed a continuance of the
23 original violation.

24
25 B. If the owner or lessee of the premises upon which the sign is located has not
26 demonstrated to the satisfaction of the ~~City Building Safety Director~~ that his sign has
27 been removed or brought into compliance with the provisions of this Article 14-34 by
28 the end of the notice period, then the ~~City Building Official or designee~~ ~~Building~~
29 ~~Safety Director~~ shall certify the violations to the City Attorney for prosecution.

30
31 C. Removal.

- 32
33 1. The ~~City Building Safety Director~~ is authorized to cause the removal of any sign
34 adjudged to be illegal by a court of competent jurisdiction if the court so orders.
35 All the actual cost and expense of any such removal by the ~~City Building Safety~~
36 ~~Director~~ shall be borne by the owner of such sign installation and the owner of
37 the premises on which located; each of them shall be jointly and severally liable
38 therefore, and an action for recovery thereof may be brought by the City Attorney
39 upon proper certification thereof to him by the ~~City Building Safety Director~~.
40
41 2. The ~~City Building Safety Director~~ may cause the removal of unauthorized
42 advertising signs from the public right-of-way or public property. Such signs may
43 be impounded as evidence, or disposed of as abandoned property unless
44 claimed by the owner within thirty (30) days. Such signs shall be deemed a
45 nuisance and subject to removal without notice.

46
47
48 **14-34-22 EMERGENCY REMOVAL OR REPAIR**

49
50 A. The ~~City Building Official~~ ~~Building Safety Director~~ is hereby authorized to cause the
51 immediate removal or repair of any sign or signs found to be unsafe or defective to

1 the extent that it creates an immediate and emergency hazard to persons or
2 property.

3
4 B. If the City Building Official ~~Building Safety Director~~ has determined that an immediate
5 emergency hazard to persons or property exists, then actual notice to the property
6 owner or lessee shall not be required. However, the City Building Official ~~Building~~
7 ~~Safety Director~~ shall be required to make a reasonable effort to notify the property
8 owner or lessee that the unsafe or defective sign must be removed or repaired
9 immediately.

10
11 C. All the actual cost and expense of any such removal or repair by the City Building
12 ~~Safety Director~~ shall be borne by the owner of such sign or by the owner of the
13 premises on which located; each of them shall be jointly and severally liable
14 therefore, and an action for recovery thereof may be brought by the City Attorney
15 upon proper certification thereof to him by the City Building Official or designee.
16 ~~Building Safety Director.~~

17
18
19 **14-34-23 ENFORCEMENT**

20
21 ~~A. The Building Safety Director is charged with the lawful enforcement of this Article 14-~~
22 ~~34. He/she shall appoint and may remove, according to law, all subordinate officials~~
23 ~~and assistants necessary to the enforcement of this ordinance. All such subordinate~~
24 ~~officials, assistants, clerks, and employees shall be subject to such rules and~~
25 ~~regulations as shall be prescribed from time to time by said Director.~~

26
27 ~~A.~~B. It shall be the duty of the City Building Official ~~Building Safety Director~~ to enforce
28 all regulations covered by this Article 14-34.

29
30 ~~B.~~C. The City Building Official ~~Building Safety Director~~, or his/her authorized
31 representative, shall have the authority to enter any building, structure, or premises
32 or any part thereof, at any reasonable time for the purpose of performing his official
33 duties under this Article 14-34. Refused entry, he shall enter only with a court order,
34 except in emergency situations.

35
36 ~~C.~~D. It shall be and is hereby declared to be unlawful for any person to willfully
37 interfere with, hinder, or obstruct the City Building Official ~~Safety Director~~, or his/her
38 authorized representative, in the lawful enforcement of the provisions of this Article
39 14-34.

40
41 ~~D.~~E. It shall be the duty of the Police Department of the City to assist the Building
42 Safety Director, or his/her authorized representative in the lawful enforcement of the
43 provisions of this Article 14-34.

44
45
46 **14-34-24 INSPECTIONS**

47
48 Unless waived by the City Building Official ~~Safety Director~~ all signs for which a permit is
49 required shall be subject to the following inspections:

50
51 A. Footing inspection on all free standing signs.

- 1
- 2 B. Electrical inspection on all illuminated signs.
- 3
- 4 C. An inspection of braces, anchors, supports and connections and wall signs.
- 5
- 6 D. Site inspection to insure the sign has been constructed according to approved
- 7 application and valid sign permit.
- 8
- 9

10 **14-34-25 INSPECTION MARKINGS**

11 Reserved

- 12
- 13
- 14 ~~A. Permanent Signs. All permanent signs regulated by this Article 14-34 shall be~~
- 15 ~~marked with the inspector's name and the person or firm erecting such sign, the date~~
- 16 ~~of installation, and the permit number. This marking shall be permanently placed on~~
- 17 ~~the exterior surface of the sign in a location where the information will be readily~~
- 18 ~~visible, legible and accessible for inspection after installation and erection.~~
- 19
- 20 ~~B. Temporary signs shall be marked by a sticker furnished by the City.~~
- 21
- 22

23 **14-34-26 SIGN MAINTENANCE**

- 24
- 25 A. Any signage that has been approved or that has been issued a permit shall be
- 26 maintained by the owner or person in possession of the property on which the sign is
- 27 located. Maintenance shall be such that the signage continues to conform to the
- 28 conditions imposed by the sign permit.
- 29
- 30 B. Any damaged sign or sign base shall be repaired within sixty (60) days of notice to
- 31 repair, issued by the City Building Safety Director.
- 32
- 33 C. Any metal pole covers and sign cabinets shall be kept free of rust and rust stains.
- 34
- 35 D. Any internally-illuminated sign cabinets or sign panels which have been damaged
- 36 shall remain un-illuminated until repaired.
- 37
- 38 E. Any signage which has been damaged to such extent that they may pose a hazard
- 39 to passersby, as determined by the City Building Safety Director, shall be repaired or
- 40 removed as directed by the Building Safety Director, subject to Section 14-34-12.
- 41
- 42 F. Failure to comply with these sign maintenance requirements shall constitute a
- 43 violation of the Peoria Zoning Code.
- 44
- 45

46 **14-34-27 DESIGN AND CONSTRUCTION SPECIFICATIONS**

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48 All signs shall be designed and constructed according to the specifications of the City's

49 adopted Uniform Building Code and Electrical Code and equivalent to the standards of

50 the Arizona Sign Association ~~as administered by the Building Safety Director.~~

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14-34-29 LOCATION REQUIREMENTS

- A. Obstruction of Exits. No sign shall obstruct any door, window or fire escape of any building.
- B. Traffic Hazards. No sign shall be erected in such a way to interfere with or to confuse traffic, to present any traffic hazard, or to obstruct the vision of motorists.
~~The Building Safety Director may require that the sign be placed in a different location or that the sign be set back in order to comply with this requirement.~~
- C. Construction over Public Property. No person, firm, or corporation shall erect or cause to be erected any sign which projects over any public sidewalk, street, alley or public place, except as specified in Section 14-34-8 A.25.j. of this Article 14-34 or as may otherwise be provided in this Ordinance. (Ord. No. 03-01)

Conference Engrossed

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2500

AN ACT

AMENDING SECTION 16-1019, ARIZONA REVISED STATUTES; RELATING TO POLITICAL SIGNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-1019, Arizona Revised Statutes, is amended to
3 read:

4 16-1019. Political signs; tampering; classification

5 A. It is a class 2 misdemeanor for any person to knowingly remove,
6 alter, deface or cover any political sign of any candidate for public office
7 for the period commencing forty-five days ~~prior to~~ BEFORE a primary election
8 and ending seven days after the general election.

9 B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to the removal,
10 alteration, defacing or covering of a political sign by the candidate or the
11 authorized agent of the candidate in support of whose election the sign was
12 placed, ~~or~~ by the owner or authorized agent of the owner of private property
13 on which such signs are placed with or without permission of the owner, ~~or~~
14 placed in violation of state law, ~~or~~ county, city or town ordinance or
15 regulation.

16 C. NOTWITHSTANDING ANY OTHER STATUTE, ORDINANCE OR REGULATION, A CITY,
17 TOWN OR COUNTY OF THIS STATE SHALL NOT REMOVE, ALTER, DEFACE OR COVER ANY
18 POLITICAL SIGN IF THE FOLLOWING CONDITIONS ARE MET:

19 1. THE SIGN IS PLACED IN A PUBLIC RIGHT-OF-WAY THAT IS OWNED OR
20 CONTROLLED BY THAT JURISDICTION.

21 2. THE SIGN SUPPORTS OR OPPOSES A CANDIDATE FOR PUBLIC OFFICE OR IT
22 SUPPORTS OR OPPOSES A BALLOT MEASURE.

23 3. THE SIGN IS NOT PLACED IN A LOCATION THAT IS HAZARDOUS TO PUBLIC
24 SAFETY, OBSTRUCTS CLEAR VISION IN THE AREA OR INTERFERES WITH THE
25 REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE
26 SECTIONS 12101 THROUGH 12213 AND 47 UNITED STATES CODE SECTIONS 225 AND 611).

27 4. THE SIGN HAS A MAXIMUM AREA OF SIXTEEN SQUARE FEET, IF THE SIGN IS
28 LOCATED IN AN AREA ZONED FOR RESIDENTIAL USE, OR A MAXIMUM AREA OF THIRTY-TWO
29 SQUARE FEET IF THE SIGN IS LOCATED IN ANY OTHER AREA.

30 5. THE SIGN CONTAINS THE NAME AND TELEPHONE NUMBER OF THE CANDIDATE OR
31 CAMPAIGN COMMITTEE CONTACT PERSON.

32 D. IF THE CITY, TOWN OR COUNTY DEEMS THAT THE PLACEMENT OF A POLITICAL
33 SIGN CONSTITUTES AN EMERGENCY, THE JURISDICTION MAY IMMEDIATELY RELOCATE THE
34 SIGN. THE JURISDICTION SHALL NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT
35 PLACED THE SIGN WITHIN TWENTY-FOUR HOURS AFTER THE RELOCATION. IF A SIGN IS
36 PLACED IN VIOLATION OF SUBSECTION C AND THE PLACEMENT IS NOT DEEMED TO
37 CONSTITUTE AN EMERGENCY, THE CITY, TOWN OR COUNTY MAY NOTIFY THE CANDIDATE OR
38 CAMPAIGN COMMITTEE THAT PLACED THE SIGN OF THE VIOLATION. IF THE SIGN
39 REMAINS IN VIOLATION AT LEAST TWENTY-FOUR HOURS AFTER THE JURISDICTION
40 NOTIFIED THE CANDIDATE OR CAMPAIGN COMMITTEE, THE JURISDICTION MAY REMOVE THE
41 SIGN. THE JURISDICTION SHALL CONTACT THE CANDIDATE OR CAMPAIGN COMMITTEE
42 CONTACT AND SHALL RETAIN THE SIGN FOR AT LEAST TEN BUSINESS DAYS TO ALLOW THE
43 CANDIDATE OR CAMPAIGN COMMITTEE TO RETRIEVE THE SIGN WITHOUT PENALTY.

1 E. A CITY, TOWN OR COUNTY EMPLOYEE ACTING WITHIN THE SCOPE OF THE
2 EMPLOYEE'S EMPLOYMENT IS NOT LIABLE FOR AN INJURY CAUSED BY THE FAILURE TO
3 REMOVE A SIGN PURSUANT TO SUBSECTION D UNLESS THE EMPLOYEE INTENDED TO CAUSE
4 INJURY OR WAS GROSSLY NEGLIGENT.

5 F. SUBSECTION C DOES NOT APPLY TO COMMERCIAL TOURISM, COMMERCIAL
6 RESORT AND HOTEL SIGN FREE ZONES AS THOSE ZONES ARE DESIGNATED BY
7 MUNICIPALITIES. THE TOTAL AREA OF THOSE ZONES SHALL NOT BE LARGER THAN THREE
8 SQUARE MILES, AND EACH ZONE SHALL BE IDENTIFIED AS A SPECIFIC CONTIGUOUS AREA
9 WHERE, BY RESOLUTION OF THE MUNICIPAL GOVERNING BODY, THE MUNICIPALITY HAS
10 DETERMINED THAT BASED ON A PREDOMINANCE OF COMMERCIAL TOURISM, RESORT AND
11 HOTEL USES WITHIN THE ZONE THE PLACEMENT OF POLITICAL SIGNS WITHIN THE
12 RIGHTS-OF-WAY IN THE ZONE WILL DETRACT FROM THE SCENIC AND AESTHETIC APPEAL
13 OF THE AREA WITHIN THE ZONE AND DETER ITS APPEAL TO TOURISTS. NOT MORE THAN
14 TWO ZONES MAY BE IDENTIFIED WITHIN A MUNICIPALITY.

15 G. A CITY, TOWN OR COUNTY MAY PROHIBIT THE INSTALLATION OF A SIGN ON
16 ANY STRUCTURE OWNED BY THE JURISDICTION.

17 H. SUBSECTION C APPLIES ONLY DURING THE PERIOD COMMENCING SIXTY DAYS
18 BEFORE A PRIMARY ELECTION AND ENDING FIFTEEN DAYS AFTER THE GENERAL ELECTION,
19 EXCEPT THAT FOR A SIGN FOR A CANDIDATE IN A PRIMARY ELECTION WHO DOES NOT
20 ADVANCE TO THE GENERAL ELECTION, THE PERIOD ENDS FIFTEEN DAYS AFTER THE
21 PRIMARY ELECTION.

22 I. THIS SECTION DOES NOT APPLY TO STATE HIGHWAYS OR ROUTES, OR
23 OVERPASSES OVER THOSE STATE HIGHWAYS OR ROUTES.

Political Signs Zoning Text Amendment

VARIABLE	EXISTING STANDARDS	A.R.S. 16-1019	PROPOSED
GENERAL LOCATION	All Zoning Districts	Not Addressed	All Zoning Districts
LOCATION EXCEPTIONS	<ul style="list-style-type: none"> A. Not permitted in public ROW B. Not permitted within 'Visibility' triangles C. Not permitted on City property or buildings D. Not permitted on utility pole or traffic device E. Allowed on private property with permission 	<ul style="list-style-type: none"> A. Permitted in public ROW owned or controlled by City B. Location cannot be hazardous to safety (visibility, ADA) C. City may prohibit sign on any structure owned by City D. City may identify up to 2 'Sign-Free' Zones (≤3 Sq. Miles) E. Does not apply to State Highways, routes or overpasses 	<ul style="list-style-type: none"> A. Permitted in public ROW with exceptions B. Not permitted within 'visibility' triangle , sidewalks, medians, traffic circles or if it interferes with ADA C. Not permitted on City-owned property, buildings or structures D. Sports Complex ROW Sign-Free Zone E. Allowed on private property with permission
SIGN AREA	<ul style="list-style-type: none"> A. 32 square feet maximum for private property B. Not permitted in public ROW 	<ul style="list-style-type: none"> A. May not be removed (ROW) if < or = 16 SF in residential zones B. May not be removed (ROW) if < or = 32 SF in non-residential zones 	<ul style="list-style-type: none"> A. Retain 32 SF maximum on private property B. Maximum of 32 SF for signs in ROW except as modified by (C) C. Maximum 16 SF on Local or Rural designated roadways in residential zones
SIGN HEIGHT	8 foot max height	Not Addressed	No Change (retain 8 ft max height)
SIGN CONTENT	Not Addressed	Must contain contact name/number	Must contain contact name/number
PERMIT REQUIRED	No	Not Addressed	No Change (No Permit Required)
SIGN PLACEMENT BEFORE VOTE	Period not addressed	City may not remove (from ROW) prior to 60 days of election day	Installed no sooner than 90 days prior to election day
SIGN REMOVAL AFTER VOTE	<ul style="list-style-type: none"> A. Within 10 days following vote referenced B. Successful primary signs may remain 	<ul style="list-style-type: none"> A. City may not remove (ROW) within 15 days after Primary Election (for those not advancing) B. City may not remove (ROW) within 15 days after General Election (for those not advancing) 	<ul style="list-style-type: none"> A. Within 15 days after Primary Election date (for those not advancing) B. Within 15 days after General Election date.

EXHIBIT C

ORDINANCE NO. 2012-06

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 14 OF THE PEORIA CITY CODE (1977 EDITION), BY AMENDING ARTICLE 14-34 "SIGNS" OF THE PEORIA ZONING ORDINANCE; PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on March 1, 2012 to consider a proposed amendment to the Peoria City Code, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on February 10, 2012; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of March 1, 2012, voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1977 edition) and Chapter 24 of the Peoria City Code; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Article 14-34 "Signs" of Chapter 14 of the Peoria City Code (1977 edition):

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. of Chapter 14 of the Peoria City Code (1977 edition) shall be amended to read as indicated on Exhibit A.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.

SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any

Ordinance 2012-06

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 3rd day of April, 2012.

Bob Barrett, Mayor

Date Signed

ATTEST:

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Published in: Peoria Times

Pub. Dates: April 6, 2012 and April 13, 2012

Effective Date:

EXHIBIT A

Article 14-34 Signs

(Amended by Ord. Nos. 2011-01, 2012-XX)

14-34-8 SIGN TYPES AND REQUIREMENTS

A. Permitted Signs. The following signs are permitted, subject to the criteria listed under each sign:

7. Construction Sign. A sign which identifies the parties included in an "in-process" construction project.
 - a. Such signs shall only be displayed on the actual construction site;
 - b. Such sign shall not exceed eight (8) feet in height nor thirty-two (32) square feet in area;
 - c. All such signs shall be removed prior to the issuance of a Certificate of Occupancy for the site;
 - d. All construction signs shall be constructed and installed to standards defined by the Department Building Safety Director.
 - e. No sign permit required, but such signs shall be constructed to standards required for a permanent sign as described by the Arizona Sign Association.

29. Political Signs. Except as otherwise provided by ARS §16-1019, a temporary sign used to support or oppose advertise the candidacy of an individual, or ballot proposition/issue, or to encourage citizens to vote. Such signs shall be permitted within all zoning districts. (Ord. No. 97-40) (Ord. No. 2012-XX)
 - a. Such signs may be located within the City right-of-way, but shall not be located provided they are not:
 - i. hazardous to public safety; within the public right-of-way,
 - ii. within a required visibility triangle, or clear vision area;
 - iii. within a roadway median or traffic circle.
 - iv. affixed to any City-owned utility pole, traffic control device or safety barrier; or on City property or buildings.
 - v. located in a manner that interferes with the requirements of the Americans with Disabilities Act;
 - vi. located in any designated commercial tourism, commercial resort, and hotel sign-free zones designated by the City Council pursuant to ARS §16-1019; and
 - vii. otherwise in violation of a requirement found in this Section. (Ord. No. 04-02)(Ord. No. 2012-XX)

b. Except as provided herein, such signs shall not be located on City-owned property, buildings, or structures;

~~b-c.~~ Such signs shall be located on property with the owner's permission. It shall be presumed the property owner has given permission unless the property owner notifies the city otherwise; (Ord. No. 04-02)

~~e. d.~~ Such signs shall be installed no sooner than ninety (90) days prior to a primary election day. For candidates not advancing to the general election, such signs shall be removed within fifteen (15) days after the primary election day. For candidates advancing to the general election, such signs shall be removed within fifteen (15) days following the general election day. removed within ten (10) days following the voting day of the election to which they refer. Signs for successful primary election candidates, eligible for the general election, may remain after the primary election;

~~d.~~ Such signs shall not be placed on or affixed to any utility pole, traffic control device or safety barrier;

~~e.~~ Such signs shall not exceed thirty-two (32) square feet in area or eight (8') feet in height, except for signs located in the right-of-way along Local or Rural classified roadways in residential zoning districts, which shall not exceed 16 square feet in area or eight (8) feet in height. When free-standing, political signs shall be constructed to Arizona Sign Association Sign Standards;

~~f.~~ Such signs shall contain the name and telephone number of the candidate or campaign committee contact person. The person, party or parties responsible for the erection or distribution of any such signs shall be jointly and severally liable for the removal of such signs;

~~g.~~ Such signs which are deemed to be unsafe, defective or which create an immediate hazard to persons or property or are not in compliance with the provisions of this section shall be declared to be a public nuisance and shall be subject to ~~immediate~~ removal by the City in accordance with state statutes; (Ord. No. 04-02, Ord. No. 2012-XX)

~~h.~~ No sign permit required.

14-34-17 PERMIT APPLICATION AND EXPIRATION

A. To obtain a permit the applicant shall file an application with the Department Building Safety Director on a form furnished by the City. The application shall contain the location by street and number and name of the proposed sign contractor, with address, state license, city tax number and phone number. All applications shall be accompanied by the written consent of the owners, lessee, agent or trustee in charge of the property on which the sign is proposed.

B. Every permit issued by the City Building Safety Director under the provisions of this code shall expire by limitation and become null and void, if the work authorized by such permit is not completed within one hundred eighty (180) days from the date of issuance of such permit. Before such work can be allowed, a new permit shall be first obtained, and the fee therefore shall be one-half of the amount required for a new permit for such work, provided

no changes have been made or will be made in the original plans and specifications for such work.

- C. The ~~City Building Safety Director~~ may, in writing, suspend, or revoke a permit issued under provisions of this Section whenever the permit is issued on the basis of a material omission or misstatement of fact, or in violation of any ordinance or any provisions of this Article.
- D. No permit for a sign issued by the City shall be deemed to constitute permission or authorization to maintain a public or private nuisance nor shall any permit issued hereunder constitute a defense in an action to abate a nuisance.
- E. The ~~City Building Safety Director~~ may issue use permits for the display of temporary on-site signs, upon a written form prescribing the terms and conditions of such display specified in this Code. Said form must be signed by the Planning and Zoning Director or designated agent.
- F. Sign permits for new or additional signs shall not be issued for a specified user if such user displays unlawful signs. Sign permits for new or additional signs shall not be issued for a specified user if such user displays nonconforming signs, provided the area of the nonconforming signs exceeds the total maximum allowable sign area for a particular user or center. If the nonconforming signs do not exceed the total maximum sign area for a particular user or center, then a sign permit may be issued for a new sign subject to the provisions of this Article 14-34. A sign permit may be issued to a specific user providing the terms thereof specify modification or removal of nonconforming signs, as provided above, resulting in conformity with the provisions of this Article 14-34.
- G. Signs for which a permit has been issued shall not be erected, installed, maintained, or displayed except in complete conformance with all terms, requirements, and stipulations specified by the approved plans and permit.

14-34-18 PERMIT FEES

- A. Before issuing any sign permit required by this Article, the Planning and Zoning Department shall collect an application fee in an amount as provided in this code, together with all fees required by the Uniform Building Code as adopted by the City of Peoria. (Ord. No. 91-12)
- B. In addition to the above fees, electrical wiring fees shall be required as specified by the City Code ~~Building Safety Director~~. (Ord. No. 91-12)
- C. An owner of a nonconforming sign which has been removed or brought into conformance shall not be required to pay a permit fee in order to obtain a permit for a replacement sign.
- D. Work for which a permit is required by this Article shall not be commenced before an application has been filed and a permit issued. Where work is commenced without an application being filed and a permit issued, the fees provided in this section shall be charged. However, the payment of such fees shall not relieve any person(s) from complying fully with the requirements of this Article in the execution of the work or from any penalties provided in this code. (Ord. No. 91-12)

14-34-19 REQUIREMENT OF PLANS

Copies of plans and specifications, ~~the number to be determined by the Building Safety Director,~~ shall be submitted with the application for each sign in excess of four (4) square feet in size that requires a permit. ~~regulated by this Article 14-34.~~ One copy shall be returned to the applicant at the time the permit is granted. Such plans shall show complete details about the size of the sign, the method of attachment or support, locations and materials to be used and the name, address, and profession of the person designing plans and specifications of such sign. Plans for supports for any sign subject to excessive stresses as determined by the ~~City Building Safety Director~~ shall be accompanied by structural surfaces and other members of an existing building to which the sign is to be attached so that the ~~City Building Safety Director~~ may certify that the supports or other surfaces are in good condition and are adequately strong to support the load, including the proposed sign.

14-34-20 REVOCATION OF PERMITS

The ~~City Building Safety Director~~ shall have the authority to revoke any permit which has been granted when it is ~~he has~~ determined that the sign authorized by the permit has been constructed or is being maintained in violation of the permit.

- A. Notice of the ~~City's Building Safety Director's~~ decision to revoke a sign permit shall be served upon the holder of the permit (a) by delivering personally a copy of the notice to the holder of the permit, or to one of its officers, or (b) by leaving a copy of the notice with any person in charge of the premises, or (c) in the event that no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of another copy of the notice to the last known post office address of the holder of the permit.
- B. The holder of the permit may appeal to the Board of Adjustment the decision ~~of the Building Safety Director~~ to revoke the permit. This appeal must be made within twenty-one (21) days from the date when the notice was served.
- C. If no appeal has been made by the end of the twenty-one (21) day appeal period, then the permit is revoked and the sign is illegal. The ~~City Building Safety Director~~ then shall initiate the procedure for the removal of the illegal sign.

14-34-21 REMOVAL OF SIGNS

Except as otherwise provided in this ordinance, the ~~City Building Safety Director~~ is hereby authorized to require removal of any illegal sign as defined by this ordinance.

- A. Before bringing an action to require removal of any illegal sign, ~~the Building Safety Director shall give written notice to~~ the owner of the sign or the owner of the premises on which sign is located shall be provided with written notice. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violations charged; such notice shall specify what repairs, if any, will make such an installation conform to the requirements of this ordinance, and specify that the sign must be removed or made to conform with the provisions of this Article 14-34 within the

notice period provided below. Service of notice shall be made as prescribed in Section 14-34-20A of this Article 14-34.

1. Notice Period.
 - a. The notice period for permanent signs shall be ten (10) days.
 - b. The notice period for temporary signs shall be forty-eight (48) hours.
 2. Re-erection of any sign or substantially similar sign on the same premises after a non-compliance notice has been issued shall be deemed a continuance of the original violation.
- B. If the owner or lessee of the premises upon which the sign is located has not demonstrated to the satisfaction of the City Building Safety Director that his sign has been removed or brought into compliance with the provisions of this Article 14-34 by the end of the notice period, then the City Building Official or designee ~~Building Safety Director~~ shall certify the violations to the City Attorney for prosecution.
- C. Removal.
1. The City Building Safety Director is authorized to cause the removal of any sign adjudged to be illegal by a court of competent jurisdiction if the court so orders. All the actual cost and expense of any such removal by the City Building Safety Director shall be borne by the owner of such sign installation and the owner of the premises on which located; each of them shall be jointly and severally liable therefore, and an action for recovery thereof may be brought by the City Attorney upon proper certification thereof to him by the City Building Safety Director.
 2. The City Building Safety Director may cause the removal of unauthorized advertising signs from the public right-of-way or public property. Such signs may be impounded as evidence, or disposed of as abandoned property unless claimed by the owner within thirty (30) days. Such signs shall be deemed a nuisance and subject to removal without notice.

14-34-22 EMERGENCY REMOVAL OR REPAIR

- A. The City Building Official ~~Building Safety Director~~ is hereby authorized to cause the immediate removal or repair of any sign or signs found to be unsafe or defective to the extent that it creates an immediate and emergency hazard to persons or property.
- B. If the City Building Official ~~Building Safety Director~~ has determined that an immediate emergency hazard to persons or property exists, then actual notice to the property owner or lessee shall not be required. However, the City Building Official ~~Building Safety Director~~ shall be required to make a reasonable effort to notify the property owner or lessee that the unsafe or defective sign must be removed or repaired immediately.
- C. All the actual cost and expense of any such removal or repair by the City Building Safety Director shall be borne by the owner of such sign or by the owner of the premises on which located; each of them shall be jointly and severally liable therefore, and an action for

recovery thereof may be brought by the City Attorney upon proper certification thereof to him by the City Building Official or designee. ~~Building Safety Director.~~

14-34-23 ENFORCEMENT

~~A. The Building Safety Director is charged with the lawful enforcement of this Article 14-34. He/she shall appoint and may remove, according to law, all subordinate officials and assistants necessary to the enforcement of this ordinance. All such subordinate officials, assistants, clerks, and employees shall be subject to such rules and regulations as shall be prescribed from time to time by said Director.~~

~~A.B.~~ It shall be the duty of the City Building Official ~~Building Safety Director~~ to enforce all regulations covered by this Article 14-34.

~~B.C.~~ The City Building Official ~~Building Safety Director~~, or his/her authorized representative, shall have the authority to enter any building, structure, or premises or any part thereof, at any reasonable time for the purpose of performing his official duties under this Article 14-34. Refused entry, he shall enter only with a court order, except in emergency situations.

~~C.D.~~ It shall be and is hereby declared to be unlawful for any person to willfully interfere with, hinder, or obstruct the City Building Official ~~Safety Director~~, or his/her authorized representative, in the lawful enforcement of the provisions of this Article 14-34.

~~D.E.~~ It shall be the duty of the Police Department of the City to assist the Building Safety Director, or his/her authorized representative in the lawful enforcement of the provisions of this Article 14-34.

14-34-24 INSPECTIONS

Unless waived by the City Building Official ~~Safety Director~~ all signs for which a permit is required shall be subject to the following inspections:

- A. Footing inspection on all free standing signs.
- B. Electrical inspection on all illuminated signs.
- C. An inspection of braces, anchors, supports and connections and wall signs.
- D. Site inspection to insure the sign has been constructed according to approved application and valid sign permit.

14-34-25 INSPECTION MARKINGS

Reserved

~~A. Permanent Signs. All permanent signs regulated by this Article 14-34 shall be marked with the inspector's name and the person or firm erecting such sign, the date of installation, and the permit number. This marking shall be permanently placed on the exterior surface of the~~

~~sign in a location where the information will be readily visible, legible and accessible for inspection after installation and erection.~~

~~B. Temporary signs shall be marked by a sticker furnished by the City.~~

14-34-26 SIGN MAINTENANCE

- A. Any signage that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.
- B. Any damaged sign or sign base shall be repaired within sixty (60) days of notice to repair, issued by the City Building Safety Director.
- C. Any metal pole covers and sign cabinets shall be kept free of rust and rust stains.
- D. Any internally-illuminated sign cabinets or sign panels which have been damaged shall remain un-illuminated until repaired.
- E. Any signage which has been damaged to such extent that they may pose a hazard to passersby, as determined by the City Building Safety Director, shall be repaired or removed as directed by the Building Safety Director, subject to Section 14-34-12.
- F. Failure to comply with these sign maintenance requirements shall constitute a violation of the Peoria Zoning Code.

14-34-27 DESIGN AND CONSTRUCTION SPECIFICATIONS

All signs shall be designed and constructed according to the specifications of the City's adopted Uniform Building Code and Electrical Code and equivalent to the standards of the Arizona Sign Association as administered by the Building Safety Director.

14-34-29 LOCATION REQUIREMENTS

- A. Obstruction of Exits. No sign shall obstruct any door, window or fire escape of any building.
- B. Traffic Hazards. No sign shall be erected in such a way to interfere with or to confuse traffic, to present any traffic hazard, or to obstruct the vision of motorists.

~~The Building Safety Director may require that the sign be placed in a different location or that the sign be set back in order to comply with this requirement.~~

- C. Construction over Public Property. No person, firm, or corporation shall erect or cause to be erected any sign which projects over any public sidewalk, street, alley or public place, except as specified in Section 14-34-8 A.25.j. of this Article 14-34 or as may otherwise be provided in this Ordinance. (Ord. No. 03-01)

RESOLUTION NO. 2012-39

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA DESIGNATING UNDER A.R.S. §16-1019(F) A CERTAIN COMMERCIAL TOURISM ZONE WHERE RIGHTS-OF-WAY SHALL BE FREE OF POLITICAL SIGNS.

WHEREAS, on April 28, 2010, the State Legislature passed House Bill 2500, amending §16-1019, Arizona Revised Statutes regarding political signs; and

WHEREAS, A.R.S. §16-1019(C) specifically prohibits cities, towns or counties from removing, altering, defacing or covering any political signs placed in a public right-of-way if the signs conform to certain statutory requirements; and

WHEREAS, A.R.S. §16-1019(F) does provide an exception to this prohibition for limited areas designated by municipalities as commercial tourism, commercial resort and hotel “sign-free” zones; where such zones are contiguous and less than a total of three square miles in area; and

WHEREAS, within the Sports Complex Commercial Tourism Zone shown on Exhibit A, there is a predominance of commercial tourism and hotel uses; and

WHEREAS, based on the predominance of such commercial tourism and hotel uses, the placement of political signs within the public right-of-ways of this Zone would detract from the aesthetic appeal of the area and diminish its appeal to tourists; and

WHEREAS, the Sports Complex Commercial Tourism Zone is contiguous, and less than three square miles in area and therefore meets the A.R.S. §16-1019(F) requirements for a commercial tourism, commercial resort and hotel “sign-free” zone.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AS FOLLOWS:

Section 1. Sports Complex Commercial Tourism Zone

1. The City Council of the City of Peoria does hereby accept and adopt the Sports Complex Commercial Tourism Zone as shown in Exhibit A.
2. Political signs shall not be permitted within any City-owned rights-of-way situated within the Sports Complex Commercial Tourism Zone.

SECTION 2. Separability.

In the event any part, portion or paragraph of this Resolution is found to be invalid by any court of competent jurisdiction, the invalidity of such part, portion, or paragraph shall not affect any other valid part, portion, or paragraph of this Resolution and effectiveness thereof;

SECTION 3. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 3rd day of April, 2012.

Bob Barrett, Mayor

Date Signed _____

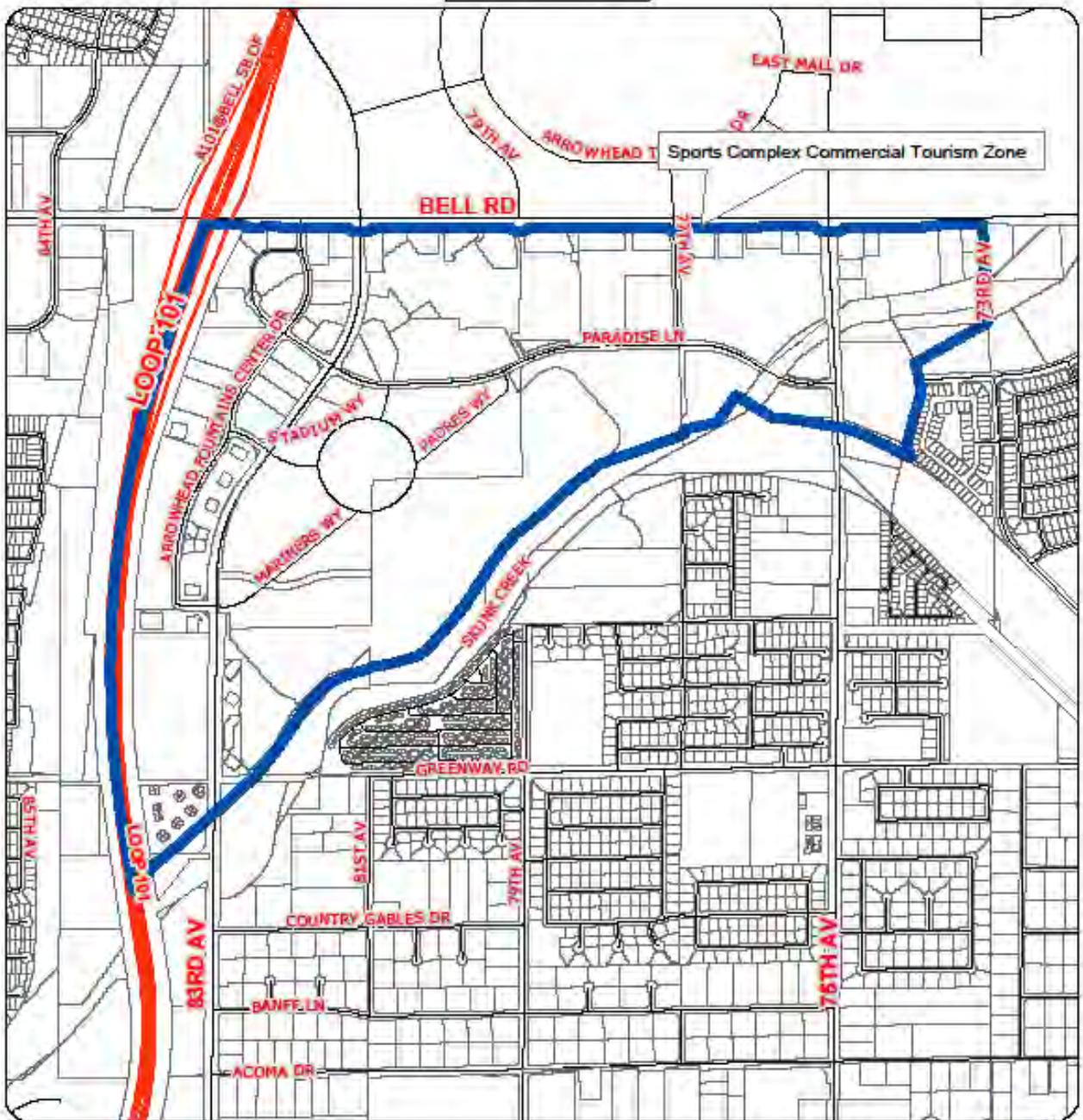
ATTEST:

Wanda Nelson, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Exhibit A



Sports Complex Commercial Tourism Zone



Not to Scale

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 15R

Date Prepared: March 2, 2012

Council Meeting Date: April 4, 2012

TO: Honorable Mayor and Council
FROM: Stephen M. Kemp, City Attorney
SUBJECT: Charter Amendment - Sales Tax on Wastewater Collection Services

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 Sales Tax on Wastewater Collection Services.

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. Subsequently at the March 20, 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 Sales Tax on Wastewater Collection Services.

Previous Actions:

This matter was discussed at City Council Study Sessions on March 20, 2012 and 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 Sales Tax on Wastewater Collection Services the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing the proposed charter amendment as to the Sales Tax on Wastewater Collection Services on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-40

**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 VI, SECTION 3 PERTAINING TO TAXING
POWERS.**

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 VI, Section 3 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 VI, Section 3 to read as follows:

Sec. 3. Taxing powers.

A. The eCouncil shall have the power to levy and collect ad valorem and excise taxes as provided by this section, including, but not limited to, a transaction privilege tax, a use tax, and a business license tax, and all other taxes not prohibited by federal or Arizona constitution or laws.

B. The Council shall not increase the rate of the transaction privilege tax imposed by the City, unless the increase in rate is approved by a majority of the qualified electors of the eCity voting in a regular or special election.

(1) The Council shall not enact an option or rate providing for the imposition of transaction privilege tax upon sales of wastewater collection services unless the

imposition of the transaction privilege tax or the adoption of the option providing for a transaction privilege tax upon sales of wastewater collection services is approved by a majority of the qualified electors of the City voting in a regular or special election.

C. The Council may impose taxes for any or all of the following purposes:

- (1) To pay the interest and maintain the sinking fund of the bonded indebtedness of the eCity;
- (2) For the establishment and support of free public libraries and for the construction and maintenance of public buildings;
- (3) For advertising and promoting the advantages of the eCity;
- (4) To create a reserve fund for replacement of equipment, for the furnishing of eCity services and the maintenance of all municipally-owned and operated utilities;
- (5) For the general expenses incurred in the operation of eCity government;
- (6) For local public improvements; and
- (7) For any other lawful municipal purpose.

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.

Resolution No. 2012-40
Taxing Powers
April 3, 2012
Page 3 of 3

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona
this 3rd day of April, 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: 16R

Date Prepared: March 2, 2012

Council Meeting Date: April 4, 2012

TO: Honorable Mayor and Council
FROM: Stephen M. Kemp, City Attorney
SUBJECT: Charter Amendment-Term Limits for Council Members

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 Term Limits for Council Members.

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. A number of the amendments were carried over to the March 20, 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 Term Limits for Council Members.

Previous Actions:

This matter was discussed at a City Council Study Sessions on March 20, 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 Term Limits for Council Members, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing the proposed charter amendment as to Term Limits for Council Members on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-42

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 5 PERTAINING
TO TERMS OF COUNCILMEMBERS.**

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 5 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 5 to read as follows:

Sec. 5. Terms of Councilmembers.

A. Councilmembers serving on the date this charter takes effect shall continue to serve their unexpired terms and until their successors are elected under the terms of section 3 of this article. Two (2) ~~C~~ouncilmembers shall be elected in the regular council elections to be held in 1985 and four (4) ~~C~~ouncilmembers shall be elected at the regular council elections to be held in 1987 and the council candidate finishing in fourth place in the 1987 regular council election shall serve a two-year term, and until his successor is elected and qualified. Three Councilmembers shall be elected in the regular council elections to be held in 2012 and three Councilmembers shall be elected in the regular council elections to be held in 2014. All other Councilmembers elected pursuant to this charter shall serve for a term of four (4) years, and until their successors are elected and qualified.

Resolution No. 2012-42
Term of Councilmembers
April 3, 2012
Page 2 of 3

B. Commencing with those Councilmembers elected in the regular council elections to be held in 2014, a person may serve three consecutive terms as a member of the City Council. In the event a person is selected to fill a vacant term by appointment pursuant to this Charter, such vacant term shall not be included. In the event a person is selected to fill a vacant term by election pursuant to this Charter, such vacant term shall be included as a term. Term of Councilmembers served prior to those elected in 2014 shall not be counted for purposes of calculating the number of terms.

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 3rd day of April, 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: 17R

Date Prepared: March 2, 2012

Council Meeting Date: April 4, 2012

TO: Honorable Mayor and Council
FROM: Stephen M. Kemp, City Attorney
SUBJECT: Charter Amendment-Policy Making by Charter Officers

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 Policy Making by Charter Officers.

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. A number of the amendments were carried over to the March 20, 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 Policy Making by Charter Officers.

Previous Actions:

This matter was discussed at a City Council Study Sessions on March 20, 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 Policy Making by Charter Officers, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing the proposed charter amendment as to Policy Making by Charter Officers on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-41

**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, BY ADDING
SECTION 22 PERTAINING TO POLICYMAKING
BY CHARTER OFFICERS.**

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, by adding Section 22 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 to add Section 22 to read as follows:

22. The city manager and the city attorney shall not exercise any policymaking or legislative functions, nor attempt to commit or to bind the mayor or council to any action, plan or program regarding policymaking or legislative functions, and such shall remain exclusively the province of the city council.

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

Resolution No. 2012-41
Policymaking by Charter Officers
April 3, 2012
Page 2 of 2

this _____ day of _____, 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: 18R

Date Prepared: March 2, 2012

Council Meeting Date: April 4, 2012

TO: Honorable Mayor and Council
FROM: Stephen M. Kemp, City Attorney
SUBJECT: Charter Amendment-Taxing Powers- Percent for the Arts

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 Taxing Powers-Percent for the Arts.

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. A number of the amendments were carried over to the March 20, 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 Taxing Powers-Percent for the Arts.

Previous Actions:

This matter was discussed at a City Council Study Sessions on March 20, 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 Taxing Powers-Percent for the Arts, then the attached resolution should be considered.

Fiscal Analysis:

Not Applicable

Narrative:

Not Applicable

Exhibit:

Exhibit 1:

Resolution placing the proposed charter amendment as to Taxing Powers-Percent for the Arts on the August 2012 Regular Election Ballot

Contact:

Stephen M. Kemp, City Attorney (623) 773-7321

RESOLUTION NO. 2012-43

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 VI, SECTION 3
PERTAINING TO TAXING POWERS.**

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 VI, Section 3 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 VI Section 3 to read as follows:

Sec. 3. Taxing powers.

A. The eCouncil shall have the power to levy and collect ad valorem and excise taxes as provided by this section, including, but not limited to, a transaction privilege tax, a use tax, and a business license tax, and all other taxes not prohibited by federal or Arizona constitution or laws.

B. The Council shall not increase the rate of the transaction privilege tax imposed by the City, unless the increase in rate is approved by a majority of the qualified electors of the city voting in a regular or special election.

C. The Council may impose taxes for any or all of the following purposes:

- (1) To pay the interest and maintain the sinking fund of the bonded indebtedness of the eCity;
- (2) For the establishment and support of free public libraries and for the construction and maintenance of public buildings;
- (3) For advertising and promoting the advantages of the eCity;
- (4) To create a reserve fund for replacement of equipment, for the furnishing of eCity services and the maintenance of all municipally-owned and operated utilities;
- (5) For the general expenses incurred in the operation of eCity government;
- (6) For local public improvements; and
- (7) For any other lawful municipal purpose.

D. The Council by ordinance may enact a program for using one percent of the project cost of capital improvement projects submitted for inclusion in the City's capital improvements program for funding public art. The amount of the one percent for public art shall not be increased or decreased, unless the increase or decrease in amount is approved by a majority of the qualified electors of the City voting in a regular or special election.

E. The enumeration herein of the types of taxes and the purposes for which such taxes may be levied and collected shall not be deemed to limit in any way the taxing powers of the eCity.

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 3rd day of April, 2012, as follows:

Resolution No. 2012-43
Taxing Powers- Percent for Arts
April 3, 2012
Page 3 of 3

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

< 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  Public Safety Council Subcommittee Meeting	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 Council Calendar

Color Key:
City Council

< April	May 2012					June >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1  Regular City Council Meeting  Special City Council Meeting & Study Session	2	3	4	5
6	7	8  City Council Subcommittee on Policy & Appointments	9	10	11	12
13	14  City Council Subcommittee on Community Culture	15  Regular City Council Meeting  Special City Council Meeting & Study Session	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		



News Release

RCM: 3a

Public Information Office

For Release: Immediately

*Contact: **Bo Larsen***

Public Information Manager

Tel: 623-773-7934 Fax: 623-773-7944

E-mail: Bo.Larsen@peoriaaz.gov

Page 1 of 1

Construction Begins On Unique BioScience Incubator in Peoria

The incubator is the result of a unique collaboration between the City of Peoria, BioAccel and Plaza Companies. It will be known as BioInspire™

PEORIA, Ariz. (March 27, 2012) – Similar to the typical business incubator, BioInspire™ will offer first-class working space, technical/business assistance and collaborative opportunities. Unique to BioInspire™ is its focus on medical devices and, most importantly, that qualified tenants may receive up to \$300,000 for working capital and/or free or greatly reduced rent. “It was important that BioInspire™ be designed in a way to advance new technologies, attract new companies, and to also facilitate their creation and growth.

Due to the high risk, it is difficult for early stage companies to find funding, and it is just as difficult for technologies to be validated through the important proof of concept phase. BioInspire™ does just that, by supporting a technology pipeline as well as critical funding when a new company needs it most,” said BioAccel CEO MaryAnn Guerra. The facility is located on the Plaza del Rio Campus, a 180-acre “medical hub” featuring 400,000 square feet of medical and healthcare offices and outpatient centers along with 1,000 beds of various components of senior living options.

The campus will provide an environment for the growth of companies once they leave the incubator. BioInspire™ consists of 6,800 square feet divided into four individual laboratories, one larger common laboratory (a unique feature providing laboratory access to tenants that do not require an individual lab), ten offices of various configurations providing for flexibility, a break room where tenants can connect and a shared conference room. Plaza Companies is working with Cawley Architects and HRW Builders on the build-out of BioInspire™. Sharon Harper, President & CEO of Plaza Companies, said the team is excited to get started on this critical project. “BioInspire™ is a game-changing entity for the City of Peoria, and we are proud to have it housed on the Plaza Del Rio Campus,” she said. “Our team is committed to building a first-class facility that will truly serve as a job creator and an innovation hub for the community.”

Learn more at - www.peoriaed.com

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

RCM: 3b

Date Prepared: 21 March 2012

Council Meeting Date: 3 April 2012

TO: Carl Swenson, City Manager

FROM: Tamara Shreeve, Council Office and Grant Program Manager

THROUGH: John Schell, Director, Governmental Affairs and Council Office

SUBJECT: Council Subcommittee Update

Summary:

The purpose of this report is to update the Mayor and Council on the Council Subcommittee activities. The attached spreadsheet lists the Council Subcommittees and the agenda item topics that have been submitted and assigned to the Subcommittee. If the item has been reviewed at a subcommittee meeting, the outcome of that discussion is also listed.

Exhibit 1: Council Subcommittee assigned agenda items

Contact Name and Number: Tamara Shreeve, x 5173

**Community Culture
Subcommittee**

Submitter	Subject	Sub- committee agenda date	Action	Study Session
Jeff Tyne / Susan D	Trail System Lighting	1/30/2012	Forward item to study session.	
Jeff Tyne / Susan D	Field Rental Policy	1/30/2012	Forward item to study session.	
Jeff Tyne / Susan D	Recreation Fees Policy	11/14/2011	Forward item to study session.	3/20/2012
Jeff Tyne / Susan D	Veterans Discount Program	2/27/2012	Forward item to study session.	
Jeff Tyne / Susan D	Establish "Peoria Friends of the Arts"	2/27/2012	Forward item to study session.	
Jeff Tyne / Susan D	Youth Master Plan	3/19/2012	Meeting Cancelled. Forward item to next meeting.	
Jeff Tyne / Susan D	Veterans Memorial Board Sponsorship	1/30/2012	Forward item to study session.	

**General Government
Subcommittee**

Submitter	Subject	Sub- committee agenda date	Action	Study Session
Brent Mattingly	Utility bill format	11/14/2011	Forward the item for full Council Study Session discussion of solid waste service options and rates.	2/7/2012
Tony Rivero	Residential Development Impact Fees	11/14/2011	Consensus of the subcommittee members was to wait for the full Impact Fee Study to address policy issues identified by Council.	
Dave Pearson	Itemizing Utility Bill	12/19/2011	Forward the item for full Council Study Session discussion of solid waste service options and rates.	2/7/2012
Steve Kemp	Adoption of Resolution supporting designating certain areas of the City with Peoria addresses and zip codes	2/13/2012	Forward to Council Study Session.	
Katie Gregory	Development Service User Fees	2/13/2012	Forward to Council Study Session.	

**Policy and
Appointments
Subcommittee**

Submitter	Subject	Sub- committee agenda date	Action	Study Session
Dave Pearson	Volunteer Appreciation	11/7/2011 1/10/2012	No further Action. Completed (11/7/11). Revisited item on 1/10/12. No further action. Completed	NA
Dave Pearson	B&C Appointment Process	11/7/2011 12/13/2011 1/10/2012	Bring back to Subcommittee for further discussion (11/7/11). Administrative action - Use the new application form. Interviews and Resumes will be at the discretion of the SC. (12/13/11). Completed. Revisited item in 1/10/12. Completed	NA
Wanda Nelson	Board and Commission Appointments & Reappointments	Ongoing	Appointments and reappointments reviewed and recommended by subcommittee - ongoing topic.	NA
Dave Pearson	Charter Amendments	12/13/2011 1/10/12 1/24/2012	Bring back to Subcommittee for further discussion (12/13/11). Discussed seven proposed charter amendments. Forward 6 of those to Study Session. One proposed amendment was withdrawn (1/10/12). Reviewed remainder charter amendments. Forward charter amendments to study session. (1/24/2012)	2/21/2012

Dave Pearson	Council Ethics Committee	11/7/2011 12/13/2011 1/10/2012	Bring back to Subcommittee for further discussion (11/7/11). Bring back to Subcommittee include a process flow chart 12/13/11. Forward to study session with consensus recommendation 1/10/12.	2/7/2012
Dave Pearson	CP1-5 Appointments to Boards and Commission	11/7/2011 12/13/11	Bring back to Subcommittee for further discussion (11/7/11). Consensus recommendation to forward to study session (12/13/11).	3/20/2012
Dave Pearson	CP 1-2 review. Edit Council Meeting Procedures to reflect Subcommittee Structure	12/13/2011	Bring back to subcommittee for further discussion (12/13/11).	
Dave Pearson	Council Role in review and approval of director appointments	12/13/2011	Consensus to move forward to regular council agenda/ through a City Manager's report.	Regular Council Meeting 1/3/2012
Susan Thorpe	Council Code of Ethics	2/14/2012 3/15/2012	Discussed item - continue discussion at the next meeting (2/14/2012). Discussed Item - continue discussion at the next meeting (3/15/2012)	
Dave Pearson	Code of Ethics for Elected Officials and Citizen Advisory Committees	2/14/2012 3/15/2012	Discussed item - continue discussion at the next meeting (2/14/2012). Discussed Item - continue discussion at the next meeting (3/15/2012)	
Claudia Lujan	Structure of the Sister Cities Board			

**Public Safety
Subcommittee**

Submitter	Subject	Sub- committee agenda date	Action	Study Session
Roy Minter	False Alarm Ordinance	11/7/2011	Forward to study session (11/7/2011)	
Dave Pearson	Recreational Vehicle Ordinance	1/11/2012	Forward to study session with full recommendation. Completed 1/11/12	
Tony Rivero	Recreational Vehicles City Code Section 14-110	1/11/2012	Forward to study session with full recommendation. Completed 1/11/12	
Carlo Leone	Traffic calming agenda item	4/11/2012		
Carlo Leone	Traffic management agenda item	4/11/2012		
Roy Minter	Park Ranger Staffing Study	12/14/2011	Informational item.	NA
Carlo Leone	Feral Cat Control			
Carlo Leone	Residential Parking			
Carlo Leone	Dirt Ordinance			
Jamal Rahimi/Andy Grainger	Neighborhood Traffic Management Program (NTMP) Policy Change	4/11/2012		

**Public Services
Subcommittee**

Submitter	Subject	Sub- committee agenda date	Action	Study Session
Bill Mattingly	Dial-a-Ride rates	11/17/2011	Forward item to Council Study Session. Completed	
Ron Aames	Transit Jurisdictional Equity Position	11/17/2011	Informational item. Forward information, through a City Manager's report, to the Council on a Regular Council Agenda.	Regular Council mtg. 1-3-2012
Susan Thorpe	Solid Waste Services	12/1/2011	Forward Item to Council Study Session. Completed	2/7/2012
Bill Mattingly/ Susan Thorpe	Commercial Solid Waste Services	12/15/2011	Forward Item to Council Study Session. Completed	2/7/2012
Dave Pearson	Change in City Ordinance regarding multi-family solid waste service	1/5/2012	Item was discussed, then withdrawn by Councilman Pearson. Completed	NA

**Sustainable
Development
Subcommittee**

Submitter	Subject	Sub-committee agenda date	Action	Study Session
Chris Jacques	Political Signs Zoning Ordinance	11/2/2011	Forward item to Council Study Session. Completed	11/15/2011
Chris Jacques/ Susan D.	Open Space Preservation Program and Decision Support Model	2/1/2012	Start community outreach activities and forward item to Council Study Session.	
Chris/Scott and Susan D.	Digital Billboards - Civic Engagement	11/7/2011	Forward Item to Study Session. Completed	11/15/2011
Dave Pearson	Council Not-For-Profit and Housing Subcommittee	11/8/2011	Bring back to subcommittee for further discussion upon completion of research and alternative identification. (11/8/11).	
Cathy Carlat	Not for Profit Committee	11/8/2011	Bring back to subcommittee for further discussion upon completion of research and alternative identification. (11/8/11).	
Scott Whyte/ Chris Jacques/ Susan D.	Old Town Entertainment District Designation	12/7/2011 1/4/2012	Bring back to subcommittee for further discussion (12/7/11). Forward to Regular Council Meeting. (1/14/2012)	Regular Council Meeting 1/17/2012

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

RCM: 3c

Date Prepared: March 26, 2012

Council Meeting Date: April 3, 2012

TO: Honorable Mayor and Council

FROM: Carl Swenson, City Manager

SUBJECT: Distinguished Budget Presentation Award

Summary:

I am pleased to announce the City of Peoria has received the Distinguished Budget Presentation Award for the current budget from the Government Finance Officers Association (GFOA). This award is the highest form of recognition in governmental budgeting and represents a significant achievement by our organization.

This is the 19th time the City has received this award; it is important to note that the grading criteria has become increasingly more stringent over time. In order to receive this award, we had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as:

- A policy document
- A financial plan
- An operations guide, and
- A communication device

Budget documents must be rated "proficient" in all four categories, and the fourteen mandatory criteria within those categories, to receive the award.

It is important to note the collaborative spirit in which this was accomplished. The leadership of the Mayor and Council throughout the budget process, as well as the direction provided by Katie Gregory, Interim Management and Budget Director, made this possible. Our budget process allowed for an engaging, thought provoking and well reasoned budget strategy; all of which resulted in this distinguished honor for the City of Peoria. I want to thank everyone who worked on the budget and congratulate you for a job well done!