

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 2C
Amend No. _____

Date prepared: November 23, 2009 **Council Meeting Date:** December 1, 2009

TO: Honorable Mayor and Council
FROM: Steve Kemp, City Attorney
SUBJECT: Telecommunications License with Accipiter Inc.

RECOMMENDATION:

That the Mayor and Council approve the Telecommunications License with Accipiter Inc.

SUMMARY:

Pursuant to the City Code and State Law, a telecommunications provider within the City of Peoria must have a license to operate within the city. Accipiter received a license five years ago, which is about to expire. Accipiter operates in a limited area of Northwest Peoria in the vicinity of Lake Pleasant. Most of its service area is undeveloped and unpopulated.

Unlike most companies Accipiter at this time does not have any infrastructure in the public right of way, so the city does not receive any license fees. However its services are subject to the telecommunications classification of sales tax.

The proposed license agreement does not change any of the existing conditions. It does recognize that in the event Accipiter does install infrastructure in the public right of way, the company will need to pay a market competitive rental fee for use of the public right of way. Currently such installation is not anticipated.

The Office of the City Attorney has worked with Accipiter's counsel and recommends approval of the proposed license agreement.

FISCAL NOTE: (If Applicable)

ATTACHMENT:

Proposed Telecommunications License
LC0110109

**TELECOMMUNICATIONS SERVICES RENEWAL LICENSE ISSUED TO
ACCIPITER COMMUNICATIONS, INC. D/B/A ZONA COMMUNICATIONS**

THIS LICENSE is issued by the CITY OF PEORIA, ARIZONA (hereinafter called "City"), a municipal corporation, to ACCIPITER COMMUNICATIONS, INC. d/b/a ZONA COMMUNICATIONS (hereinafter called "Licensee"), an Arizona corporation.

WHEREAS, Licensee has applied to the City for permission to construct, install, operate, maintain and use the public highways, public streets, public rights-of-way, and public utility easements in the City in order to provide telecommunications services; and

WHEREAS, Licensee has represented to and provided documents to the City which establish that on October 11, 1995 the Arizona Corporation Commission ("ACC") issued Decision No. 59346 (Docket No. U-02847A-95-0026) approving the application of Licensee to acquire certain telecommunications assets of U S WEST Communications, Inc. (now known as "Qwest"), and authorizing Licensee to provide local exchange, intraLATA and interLATA telecommunications services within the geographic area covered by Licensee's certificate of convenience and necessity, which geographic area is located partially within the municipal boundaries of the City; and

WHEREAS, by such authority as may be conferred by §§ 9-581 through 9-583 of the Arizona Revised Statutes and statutes amendatory thereto, the Peoria City Charter and state and federal law, the City is issuing this License; and

WHEREAS, pursuant to the Peoria Municipal Code, the City Council has authorized the City Manager or his designee to execute a license with Licensee to construct, install, operate, maintain and use facilities in, along, under, over and across public highways, public streets, public rights-of-way, and public utility easements within the City to provide telecommunications services; and

WHEREAS, the City has previously granted that certain Telecommunications Services License issued to Licensee dated November 6, 2003.

NOW, THEREFORE, the City hereby grants a renewal license ("License") to Licensee.

1. Permission Granted.

1.1 Subject to the provisions contained herein, and to the Peoria City Code, Peoria City Charter, Arizona State Statutes and the Constitution of the State of Arizona, the City hereby grants to Licensee the nonexclusive revocable license, right and privilege to construct, install, operate, maintain and use facilities in, under, along, over and across public highways, public streets, public rights-of-way, and public utility easements to provide Telecommunications Services (as defined in § 23-92 of the Peoria City Code) within the current and future corporate limits of the City. The terms, phrases, words and their derivatives shall have the meaning defined in Chapter 23 of the Peoria City Code as amended from time to time. The permission granted herein to Licensee shall hereinafter be referred to as "License." By accepting this License, Licensee agrees that this License and the Licensee are subject to all provisions of the Peoria City Charter and Peoria City Code, including, but not limited to, Chapter 23.

1.2 If it is necessary for the Licensee to comply with any rule or regulation of the Federal Communications Commission (“FCC”) or the ACC to engage in business activities associated with use of the public highways, public streets, public rights-of-way, and public utility easements to provide telecommunications services, the Licensee shall comply with such laws or regulations as a condition precedent to exercising any rights granted by this License. Provided, however, no such rule or regulation of the FCC or ACC shall enlarge or modify any of the rights or duties granted by this License without a written modification to this License except to the extent required to be permitted by applicable law.

1.3 Licensee shall apply and be responsible for any permits to construct, install, maintain or perform any work in the public highways, public streets, public rights-of-way and public utility easements which requires a construction permit from the City pursuant to applicable City Codes. Before constructing, operating, installing or using facilities in the public highways, public streets, public rights-of-way and public utility easements, Licensee shall notify the City in writing and shall be the party to apply and be responsible for any permits to construct, install, maintain or perform any work in the public highways, public streets, public rights-of-way and public utility easements which requires a construction permit from the City pursuant to applicable City Codes or this License. Licensee shall strictly adhere to and perform in accordance with the City’s “Utility Permits – Guidelines for Working in the City of Peoria”, attached as *Exhibit A*, as amended from time to time by the City Engineer: failure to do so will result in a breach of this License and liquidated damages will accrue in the amount of One Thousand Dollars (\$1,000) per day beginning on the seventh (7th) day after written notice of the violation and continuing until the breach has been cured. Licensee agrees that this is a reasonable approximation of the damages to the City, and that actual damages would be difficult or impossible to determine.

2. General Conditions.

2.1 The Licensee and City agree if a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that the City did not have the authority to issue a License to Licensee under A.R.S. § 9-581 to 9-583, as amended or succeeded, then this License shall be considered a revocable permit with a mutual right in either party to terminate without cause upon giving 60 days written notice to the other. The requirements and conditions of such revocable permit shall be the same requirements and conditions as set forth in this License except for conditions relating to the term of the License and the right of termination. If this License shall be considered a revocable permit as provided herein, the Licensee acknowledges the authority of the City Council to issue a revocable permit and the power to revoke as provided therein.

2.2 There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any ordinance or the Charter of the City, and the Licensee, by its acceptance of this License, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established, except those actions or requirements which are unlawful under state or federal law. Neither the granting of any License nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

2.3 In addition to the indemnity requirements set forth in the Peoria City Code at § 23-97, the Licensee shall indemnify, defend and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses of any nature, including reasonable attorney's fees sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever arising out of the act or omission by the Licensee and its agents, employees and contractors pursuant to this License or the construction, installation, operation, maintenance or use of the facilities authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this License.

2.4 In addition to the insurance requirements set forth in the Peoria City Code at § 23-97, Licensee shall comply with the Insurance Requirements attached to this License. Provided that the insurance also complies with all the requirements of this License, the Licensee may maintain as the insurance under this § 2.4 endorsements or amendments, in forms acceptable to the City Attorney, and to the extent that Licensee shall construct, operate, install or use facilities in the public highways, public streets, public rights-of-way, and public utility easements.

3. Public Highway Preservation.

3.1 Performance Bond. The Licensee shall file and maintain a faithful performance bond in favor of the City in the sum of Three Hundred Eighty Thousand Dollars (\$380,000) to guarantee that the Licensee shall well and truly observe, fulfill and perform each and every term of this License. In case of any breach of any condition of this License, any amount of the sum in the bond, up to the whole thereof, may be forfeited to compensate the City for any damages it may suffer by reason of such breach; provided, however, that Licensee shall have sixty (60) days following written notice by the City of such a breach to cure the breach. Said bond shall be acknowledged by Licensee, as principal, and by a corporation licensed by the Arizona Insurance Commissioner to transact the business of a fidelity and surety insurance company, as surety, and said bond shall be approved by the City. [cure]

3.2 Security Fund. Prior to applying for any permit to construct, install, maintain or perform any work in the public highways, public streets, public rights-of-way and public utility easements which requires a construction permit from the City pursuant to applicable City Codes, the Licensee shall deposit into a suitable interest-bearing account, established by the City, and the Licensee shall maintain on deposit through the term of this License, the sum of not less than Fifty Thousand Dollars (\$50,000), as security for the faithful performance by it of all the provisions of this License, and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under the License issued pursuant thereto, and the payment by the Licensee of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the facilities. City shall have the full power of withdrawal of funds from the account except that all interest accrued shall be payable to the Licensee on demand. No withdrawals shall be made from the security fund account without the prior written approval of the City Manager and ten days' prior written notice of intent to withdraw to Licensee.

3.2.1 Within thirty (30) days after notice to Licensee that any amount has been withdrawn by the City from the security fund pursuant to this § 3.2, the Licensee shall deposit a sum of money sufficient to restore such security fund to the original amount.

3.2.2 If the Licensee fails, within ten (10) business days of a notice of intent to withdraw from the security fund, to pay to the City any taxes or fees due and unpaid; or fails to repay to the City, within such ten (10) business days of such notice, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Licensee in connection with this License; or fails, within thirty (30) days of such notice of failure by the City to comply with any provision of the License which the City reasonably determines can be remedied by an expenditure of the security, the City may immediately withdraw the amount thereof, with interest from the security fund. Upon such withdrawal, the City shall notify the Licensee of the amount and date thereof.

3.2.3 The Licensee shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the License or upon termination of the License at an earlier date, provided that there is then no outstanding default on the part of the Licensee. Any funds that the City erroneously or wrongfully withdraws shall be returned to Licensee, with interest of 1.0% per month, within thirty (30) business days of such a determination.

3.2.4 The rights reserved to the City with respect to the security fund are in addition to all other rights of the City whether reserved by this License or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the City may have.

3.2.5 The Licensee shall provide the City, in a form acceptable to the City Attorney, an endorsement or amendment to such security providing that such security can be withdrawn by City pursuant to the provisions of this License and that, if withdrawn, such security shall be restored to the original amount as provided in this License.

3.3 Trees. Any trimming of trees by the Licensee in the public highways, public streets, public rights-of-way, and public utility easements shall be subject to such regulation as the City Manager or other authorized official may establish to protect the public health, safety and convenience.

3.4 Coordination. The City may issue reasonable policy guidelines to all telecommunications services licensees and permittees to establish procedures for determining how to control issuance of engineering permits to multiple licensees for the same one-mile segments of their facilities. The Licensee agrees to cooperate with the City in establishing such policy and comply with the procedures established by the City Manager or his designee to coordinate the issuance of multiple engineering permits in the same one-mile segments.

3.5 Competitively Neutral Annual Fee. In the event that the City negotiates an annual fee (pursuant to A.R.S. § 9-583(C)(2), as amended from time to time, or any similar statute) with any other existing telecommunications licensees of the City (an

“Existing Licensee”) during the term of this License, the City will notify the Licensee in writing and will then levy an annual fee equal to the annual fee thereafter charged to the Existing Licensee. The annual fee will be no higher than is legally permissible under A.R.S. § 9-583(C)(2), as amended from time to time. Once an annual fee is levied on the Licensee, it may not be increased during the term of this License except as may be provided in the renewed license of the Existing Licensee.

4. Records and Locator Service of Facilities; Mapping.

4.1 The Licensee shall comply with A.R.S. § 40-360.21 et seq. by participating as required by law as a member of the Arizona Blue Stake Center with the necessary records and persons to provide location service of Licensee’s facilities upon receipt of a locate call or as promptly as possible, but in no event later than two working days. A copy of the agreement or proof of membership shall be filed with the City.

4.2 The Licensee shall keep accurate installation records of the design and location of all of its underground and above ground telecommunications facilities in the public highways, public streets, public rights-of-way, and public utility easements in an electronic mapping format compatible with the current City electronic mapping format. Upon completion of any new construction or relocation of telecommunications facilities in the public highways, public streets, public rights-of-way, and public utility easements for which a new construction permit is required, the Licensee shall provide to the City Manager or his/her designee, within sixty (60) days of such completion, accurate updated electronic maps of the Licensee’s telecommunications facilities which includes “as-built” route maps and installation records for such construction in the City’s electronic mapping format showing the location of underground and above ground facilities using symbols as determined by the City.

5. Installation and Operation of the Facilities.

5.1 All installations shall meet the applicable standard specifications and requirements of the City.

5.2 The authority granted by this License to use the public highways, public streets, public rights-of-way, and public utility easements does not authorize Licensee’s use of the facilities for operating a cable television system, a cable system or authorize the Licensee to operate as a cable operator as those terms are defined in the Communications Act of 1934 as amended, state law, or the City Code. The authority granted by this License does not authorize the use of the public highways, public streets, public rights-of-way, and public utility easements for an open video system as defined in the Communications Act of 1996 or as defined or authorized by the FCC. The authority granted by this License is not in lieu of any other license or franchise the City may require to occupy the highways to provide service other than telecommunications service.

5.3 The Licensee shall comply with rules and regulations of the FCC and ACC that apply to the telecommunications services Licensee provides over the facilities in the public highways, public streets, public rights-of-way, and public utility easements that Licensee is authorized to use by this License. The Licensee shall, within a reasonable time after request by the City, provide the City copies of all correspondence from the FCC or ACC to the Licensee or from the Licensee to the FCC or ACC that is

directly relevant to use of the public highways, public streets, public right-of-way and public utility easements to provide telecommunications services as authorized by this License.

5.4 Proprietary Information. In order for the City to determine the Licensee's compliance with the terms of this License, within ten (10) days of written notice by City of a request for disclosure, the Licensee shall provide relevant documentation as requested by City. Upon reasonable notice by City, Licensee shall make its facilities available for joint inspection as requested by the City. If the Licensee determines that in order to respond to City's request for documentation and inspection that it must reasonably provide proprietary information, the Licensee shall so designate such claim to proprietary treatment on documents provided to City.

5.4.1 Proprietary information disclosed by Licensee for the purposes hereunder shall mean any document or material clearly identified as confidential (hereinafter "Proprietary Information"). Such Proprietary Information shall include, but not be limited to, any customer lists, financial information, technical information or other information clearly identified as confidential pertaining to services provided to its customers.

5.4.2 Proprietary Information disclosed by Licensee hereunder to the City or its constituent departments shall be regarded as proprietary as to third parties. If the City receives a request to disclose such information, the City shall notify Licensee of such request and allow the Licensee a reasonable opportunity to defend its information from disclosure. The foregoing shall not apply to any information that is already in the public domain; however, if public domain information is included with Proprietary Information on the same document, the City shall only disclose those portions within the public domain.

5.4.3 Notwithstanding any provision in this License, the Licensee acknowledges and understands that City is a political subdivision of the State of Arizona and is subject to the disclosure requirements of Arizona's Public Records Law (A.R.S. § 39-121 et seq.) and Licensee agrees that the City has no liability to Licensee for negligent disclosure thereunder.

6. Licensee Abandonment of the Facilities. If the Licensee abandons use of its cable, ducts or other facilities (used to provide telecommunications services under or pursuant to the License) or upon cancellation, revocation or termination of the privilege herein granted, Licensee shall notify the City and may – subject to the City's approval – permanently abandon the improvements in place.

6.1 In lieu of permanent abandonment, the City may require Licensee promptly to remove its above-ground facilities and to restore the public highways, public streets, public rights-of-way, and public utility easements to a reasonable condition under the supervision of the City to the reasonable satisfaction of the City and without cost or expense to the City. This provision shall not apply to any underground telecommunications facilities of Licensee.

6.2 Upon permanent abandonment, if the City does not require removal, the Licensee shall submit to the City a proposal and instruments for transferring ownership to

the City without cost to the City. Any such facilities which are not removed as required by the City within one hundred twenty (120) days of either such date of termination or revocation or of the date the City issued a permit authorizing removal, whichever is later, automatically shall become the property of the City. The Arizona Blue Stake Center must be notified to record facilities abandoned.

7. Term of License.

7.1 The right, privilege and license granted herein shall continue and exist for a period of five (5) years from the effective date hereof unless sooner revoked as provided in § 10 below. No provision of this License may be construed to grant any automatic extension, renewal, or replacement thereof.

7.2 At any time prior to the expiration of this License, the Licensee may apply to the City for a renewal or extension of the License in accordance with the then existing state and City laws.

8. Transferability of License.

8.1 No Assignment. The rights, privileges and license granted hereunder shall not be sublet, assigned or otherwise transferred nor shall any of the rights or privileges therein granted or authorized be leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the Licensee, either by act of the Licensee or operation of law, without the express written consent of the City by an ordinance or resolution passed by the City Council, which consent shall not be unreasonably withheld or delayed. Before any proposed assignment or other transfer becomes final, the Licensee shall request the consent of the City to such proposed assignment. The new Licensee (as consented to by the City) shall be equally subject to all the obligations and privileges of the original License – including any amendments – which will remain in full effect as if the new Licensee was the original Licensee.

8.2 Contact. The Licensee shall notify the City within thirty (30) days of any change in mailing address or emergency phone numbers.

Licensee Address:

Accipiter Communications
d/b/a Zona Communications
2238 West Lone Cactus Drive
Suite 100
Phoenix, Arizona 85027

Licensee Emergency Phone Number:

928-501-5000

8.3 Instruments. After the transfer, the Licensee shall provide City a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such transfer, certified and sworn to as correct by the Licensee. A request for consent to transfer shall include an assignment agreement executed by Licensee and transferee, and for execution by the City after its consent, that:

8.3.1 The transferee has read, accepts and agrees to be bound by the License;

8.3.2 The transferee assumes all obligations, liabilities and responsibility under the License for the acts and omissions of Licensee, known and unknown, for all purposes, and agrees that the transfer shall not permit it to take any position or exercise any right which Licensee could not have exercised;

8.3.3 The assignment of the License (including all amendments) shall be binding on the transferee as upon the transferor of the License as if the transferee had originally executed the License for the full term of the License; and

8.3.4 The transfer will not substantially diminish the financial resources available to the Licensee.

8.4 Lenders. Nothing in this § 8.4 shall be deemed to prohibit a pledge or, hypothecation or mortgage or similar instrument transferring conditional ownership of all or part of the Licensee's assets to a lender or creditor in the ordinary course of business. In the event a lender assumes control of the assets and operation of the Licensee through a default of the Licensee in loan obligations, the lender may assume the rights and obligations of the Licensee. The lender may not transfer or change control of the License without submitting the change to the City for consent under this § 8. If the lender does continue operation on any basis at any time, it shall be subject to all provisions of the License. No later than three years after assumption of control by the lender, the lender shall apply to the City for the right to continue assumption of control or to transfer the License. Application by the lender for approval of such assumption of control or transfer shall be subject to all provisions set forth herein on consent by the City Council and approval shall not be unreasonably denied or delayed. A "lender" as discussed herein does not include a company, person or corporation or other entity that operates cable television systems or telecommunications systems as a principal or important business. This section is intended to prohibit the intentional use of lending and/or foreclosure as a method for effecting change of control or transfer of the License without City Council review and approval.

8.5 Permitted Transfer.

8.5.1 Notwithstanding the foregoing, prior consent shall not be required for a transfer to a company that meets either of the following conditions:

(a) The company is owned or controlled or under common control and with the same direct parent as Licensee and is intended after such transfer to remain under the ownership or control of that parent or an entity under common control or with the same direct parent; or

(b) After the transfer, the company will be owned or controlled or under common control with the same direct parent, and are intended after such transfer to remain under the ownership or control of that parent or an entity under common control or with the same direct parent.

8.5.2 Within thirty (30) days after completing a transfer described in this § 8.5, Licensee and the proposed transferee shall submit to the City a notice of transfer, including documents meeting the conditions of § 8.3, and a description of the nature of

the transfer, including complete information regarding the effect of the transfer on the direct and indirect ownership and control of the License.

8.5.3 After the transfer, the Licensee shall provide City a copy of the deed, agreement, mortgage, or lease or of another written instrument evidencing such transfer, certified and sworn to as correct by the Licensee.

8.5.4 After the transfer, the new licensee must comply with the provisions of this § 8 with respect to further transfers as if the new licensee were the original Licensee.

9. Nonexclusive License. This grant is not exclusive, and nothing herein contained shall be construed to prevent the City from granting other like or similar grants or privileges to any other person, firm or corporation, or to deny to or lessen the powers and privileges granted the City under the Constitution and laws of the State of Arizona.

10. Revocation of License.

10.1 The City may revoke the License granted hereunder prior to its date of expiration if the Licensee fails to comply with the material terms and conditions of the License or applicable law.

10.2 Before revoking the License, the City Manager or a designee shall give written notice to Licensee of the defect in performance and give Licensee sixty (60) days within which to cure the defect in performance.

10.3 The City need not provide a sixty (60) day cure period prior to revocation if the City finds that the defect in performance is due to an intentional misconduct, is a violation of criminal law, or is a part of a pattern of violations where the Licensee has already had notice and opportunity to cure.

10.4 If the Licensee requests a hearing before revocation, the City shall provide a procedure for such a hearing prior to final action on the notice of defect in performance.

11. Acceptance of License Terms and Conditions.

11.1 This License shall not become effective until written acceptance thereof shall have been filed by Licensee with the City Clerk. By accepting this License, the Licensee covenants and agrees to perform and be bound by each and all of the terms and conditions imposed by the License and by the Charter and Code of the City.

11.2 The Licensee acknowledges and accepts the right of the City to issue a License under currently applicable law and Licensee agrees it shall not now or at any time hereafter challenge this right to issue the License in any way or in any forum.

11.3 The Licensee has reviewed the City's ability to grant a License and accepts such a License as the City may now be legally able to grant.

11.4 In the event of conflict between the terms and conditions of the License and the terms and conditions on which the City can grant a license or permission to use the public highways, public streets, public rights-of-way and public utility easements as set forth in applicable law, the applicable law shall, without exception, control.

11.5 Nothing in this License shall be deemed to waive the requirement of the various codes, ordinances and regulations of the City regarding permits, fees to be paid or manner of construction.

11.6 The Licensee agrees that it shall have no recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the City because of the enforcement of the License or because of defects in ordinance or License issuance, or because of any required dedication or failure to require the dedication of any right or interest in real or personal property in conjunction with any site plan approval, zoning, rezoning, or any other application of City authority to an interest in land.

This License executed this ___ day of _____, 2009

CITY OF PEORIA, ARIZONA, a municipal corporation

By: _____
Carl Swenson, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ACCEPTED:
ACCIPITER COMMUNICATIONS, INC.,
d/b/a ZONA COMMUNICATIONS

By: _____
Its: President and General Manager

Exhibit A

Utility Permits – Guidelines for Working in the City of Peoria

Date: December 18, 2002

To: Utilities/Contractors/Subcontractors Requesting to Work in the City of Peoria Right-of-way

From: David A Moody, Public Works/Engineering Director

Subject: Utility Permits – Guidelines for Working in the City of Peoria

Notice:

Failure to follow the guidelines and procedures outlined in this letter may result in the Utility Inspector halting work for an undetermined length of time. Repeated failure of a contractor or subcontractor to follow these guidelines and procedures may result in that contractor or subcontractor being “banned” from working in the City of Peoria.

Construction Schedule

Requests to work in (or adjacent to) a residential, an arterial, or collector street (work in right-of-way or P.U.E.’s) must be accompanied by a construction schedule. Construction schedules shall be approved by the Offsite Inspection Supervisor (prior to the start of construction). Schedules must include dates for all phases of construction (splicing, plating, etc.) through permanent pavement replacement. Any variance from the approved schedule shall be approved by the Offsite Inspection Supervisor.

General Guidelines

1. Contractors/subcontractors must be “approved” to work under utility permits. The City of Peoria will maintain a list of approved contractors and subcontractors.
2. Non-emergency work in, or adjacent to, an arterial or collector street (in the right-of-way) requires an individual permit. This work is not covered under the blanket permit.
3. You must have an active permit
4. You must comply with Blue Stake Laws.
5. All contractors working within the City of Peoria rights-of-ways must comply with Ordinance 01-181.
6. Proper notification must be made to all effected residents. This includes notifications/information signs required by the City of Peoria Infrastructure Guide, and the hanging of door notices. Door notices shall be hung prior to blue staking and commencing work (non-emergency work). Lack of proper notification will result in the City halting all work for the day.

Hangers shall include the following information:

- Names of contractors, sub-contractors and local utility company contacts
- Contact phone numbers (office and cell phones)
- Dates/times of scheduled work

- Area impacted
 - Scope of work
7. All work in the right-of-way or P.U.E.'s shall conform to applicable M.A.G. Specifications and Details except as amended by the City of Peoria Infrastructure Guide and City of Peoria Standard Details.
 8. Open pits (not in the street) are allowed to remain open for 2 weeks only.
 9. Open pits are to be properly secured (to the satisfaction of the City's Utility Inspector).
 10. All project areas must be cleaned up and barricades removed within 3 days of the completion of work.

Work Allowed Under Blanket Permits

1. Emergency work
2. Non-emergency work that **IS NOT** in, or adjacent to, an arterial or collector street **AND DOES NOT** require more than 100 feet of open trench.
3. Window cuts are restricted to 1 foot by 1 foot under the blanket permit.
4. Boring: Only "directional boring" will be allowed under the blanket permit.

Work Hours/Notification of Work

1. Comply with Peoria Ordinance #98-11 restricting outdoor construction hrs listed below:

CONSTRUCTION TYPE	APRIL 2 – SEPTEMBER 29	SEPTEMBER 30 – APRIL 1
Concrete Work	5:00 a.m. to 7:00 p.m.	6:00 a.m. to 7:00 p.m.
Other Construction (within 500 feet of residential area)	6:00 a.m. to 7:00 p.m.	7:00 a.m. to 7:00 p.m.
Construction Work (more than 500 feet of residential area)	5:00 a.m. to 7:00 p.m.	5:00 a.m. to 7:00 p.m.

2. Daily work locations must be submitted on the standard City form. This form must be submitted to the City by 6:30 a.m., and 24 hours in advance of the work scheduled. There will be a limit of six work locations within the City (per utility company) per day. Work location sheets should be faxed to the City's Utility Inspector, Jim Fournier at 623-773-7678. Jim's cell phone # is 602-918-7668.
3. Weekend/holiday or "off-hour" work is not permitted without the prior approval of the Offsite Inspection Supervisor.

Work Hours Within Public Rights-of-Way

No interference with traffic flow on arterial streets shall be permitted during the hours of 7:00 a.m. to 9:00 a.m. or from 4:00 p.m. to 6:00 p.m. unless prior authorization is obtained in writing from the City of Peoria Traffic Engineer or his designee.

Pre-Job Meeting/City Requirements

1. The contractor (or utility company) shall arrange a “pre-job” meeting with the City Utility Inspector and the utility company representative. To discuss the following City requirements (there may be others):
 - Possible conflicts with other utilities
 - No boring to be done within three feet of water or sewer mains without pot-holing
 - Pot-holing shall not be greater than one square foot
 - Accurate construction schedule
 - Identify responsible sub-contractor foreman who will remain on job site.
 - Foreman must be able to communicate with Utility Inspector and have a cell phone.
 - Identify responsible field representative for utility company (Qwest, SWG, etc.). Utility Co. must have one point of contact available to the Utility Inspector.
 - Landscaping, irrigation systems that may be disturbed
 - Contact homeowners before entering backyards (P.U.E.s)
 - Complete work and repair damaged pavement, curb, gutter, sidewalk, landscape and irrigation systems within 15 calendar days.
 - Provide restroom facilities as needed.

Trench Backfill and Pavement Replacement

1. All backfill under existing pavement and concrete shall be ½ sack ABC slurry. This slurry backfill may be required in other incidences at the discretion of the Utility Inspector.
2. The AC mix design shall be “City of Phoenix C-3/4 inch mix”. Use of “bagged” or “canned” mix for permanent pavement replacement is prohibited.
3. Pavement thickness shall be 1.5 times the existing thickness. Pavement shall be replaced per M.A.G. Std. Detail 200 (“T-top”) with the exception that all backfill shall be ½ sack ABC slurry.
4. Materials testing may be required (paid for by the utility company) at the discretion of the Utility Inspector.
5. Trench backfill and permanent AC pavement replacement must be completed within 7 calendar days of excavation (unless requirement is waived by the Offsite Inspection Supervisor).
6. Must follow City of Peoria Standard Detail #149 for recessed plating. Plates must always be “pinned” and “cold-patched”. Plates must be recessed if existing speed limit is over 25 mph. If plates are not recessed (existing speed limit is 25 mph or less) bump signs must be appropriately place.

Traffic Control/Barricading

1. Shall comply with City ordinance #01-181, and the City of Peoria Infrastructure Guide

2. All work in or adjacent to arterial or collector streets shall require the submittal of a Traffic Control Plan. This plan shall be submitted to the Offsite Inspection Supervisor (Chris Young) at 623-773-7678 (fax number). TCP's may be required in other incidences at the discretion of the Offsite Inspection Supervisor.
3. All utility companies or their contractors must have an accepted TCP returned to them prior to start of work. The on-site utility/contractor's representative must have a copy of the permit and the accepted TCP available for the Utility Inspector's review.
4. If any part of the barricading (per an accepted TCP) falls within 300' of a signalized intersection a police officer will be required. Police officers may be required in other incidences at the discretion of the Offsite Inspection Supervisor.