



## City of Peoria

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October 18, 2011

### VIA OVERNIGHT MAIL

Chief, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
Room 7254 – NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

**Re: Submission Under Section 5 of the Voting Rights Act  
for the City of Peoria, Arizona Redistricting**

Dear Sir or Madam:

Please find enclosed the submission of the City of Peoria, for its City Council Redistricting based on the 2010 Census. A Table of Contents of the Appendixes and relevant Appendixes are enclosed. The Appendixes are indexed based on their numbering contained in the federal regulations. The submission is submitted electronically in accordance with the current regulations issued by the Department.

This submission to the Department of Justice is being made for the pre-clearance under Section 5 of the Voting Rights Act, as amended. For purposes of your analysis, I have outlined the relevant Procedure and Applicable Statutes, City Charter, and City Code provisions below.

The City's Charter requires the City to redistrict in the event a mid-decade census is taken. In 2010, a decennial census was performed by the U.S. Census Bureau in Maricopa County, Arizona and released to the State, County and Cities, beginning on February 9, 2011. Since the 2000 Census, the City has experienced substantial growth and has annexed several large areas to the north of the City.

As a result of the 2010 Census, the City began a redistricting process for the 2012 elections. <sup>1</sup>The City retained National Demographics Corporation to assist the City in this process. The final report prepared by National Demographics contains a detailed

<sup>1</sup> The City's elections are held in September/November of even number years. Under Arizona Law, candidates may pull packets and file statements of organizations for committees at any time and generally do so 6 – 12 months preceding the election.

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outline of the process used by the City in the redistricting. Instead of repeating the detailed report, I will proceed to an analysis of the City's proposed District Boundaries.

The Map enclosed corresponds to Ordinance 2011-17, dated September 6, 2011, which designates the new boundaries for the City Council Districts. The population breakdown of the districts is as follows:

DISTRICT NAME	DISTRICT POPULATION (2010 Census)
ACACIA	25,775
IRONWOOD	25,886
MESQUITE	25,652
PALO VERDE	25,460
PINE	25,486
WILLOW	25,806

The proposed districts vary in population by approximately  $-.9\%$  to  $.6\%$  or a total of  $1.5\%$  from the mean population of 25,677.5. This variance can be explained due to the following:

1. The plan's attempt to minimize retrogression and to maintain a strong minority representation in the City's Acacia District.
2. The plan's attempt to compensate for the rapid Growth in the Mesquite District.

Approximately 70% of the City's population growth from 2000 – 2010 occurred in the Mesquite District. Prior to the redistricting approximately 1/3 of the City's population resided in the Mesquite District. The overpopulation of the Mesquite District and the narrow boundaries of the City between Greenway Road and Union Hills Road (1.5 Miles in width) reduces the City's ability to have compact districts.

The City attempted to address concerns of community and minority organizations in the proposed redistricting plan. A breakdown of the City's population by racial and ethnic group is set forth below:

YEAR	TOTAL	WHITE	AFRICAN AMERICAN	ASIAN	HISPANIC	AMERICAN INDIAN	OTHER
2010	100%	72.2%	3.7%	3.8%	18.6%	1.1%	.7%

A breakdown of the racial and ethnic population under the current districts and the proposed districts is set forth below:

**DEMOGRAPHIC ANALYSIS OF CURRENT DISTRICTS**  
**Based on 2010 Census**

CURRENT DISTRICTS	TOTAL	WHITE	AFRICAN AMERICAN	ASIAN	HISPANIC	AMERICAN INDIAN	OTHER
MESQUITE	51,463	41,914	1,313	2,657	4,944	335	300
ACACIA	17,868	7,674	1,176	456	8,064	352	146
IRONWOOD	22,114	18,224	663	698	2,225	164	140
PALO VERDE	19,743	14,069	750	661	3,861	260	142
PINE	22,176	14,255	1,080	656	5,697	317	171
WILLOW	20,701	15,106	727	664	3,838	196	170

**DEMOGRAPHIC ANALYSIS OF PROPOSED DISTRICTS**  
**From Adopted Plan – Concept 8**

PROPOSED DISTRICTS	TOTAL	WHITE	AFRICAN AMERICAN	ASIAN	HISPANIC	AMERICAN INDIAN	OTHER
MESQUITE	25,652	20,563	743	1,673	2,346	148	179
ACACIA	25,775	12,068	1,531	767	10,704	486	219
IRONWOOD	25,886	21,506	670	817	2,582	191	120
PALO VERDE	25,460	18,900	947	948	4,220	237	208
PINE	25,486	17,099	1,185	628	6,009	373	192
WILLOW	25,806	21,106	633	959	2,768	189	151

You will note that the Acacia District contains a substantial minority representation. The current Acacia District according to the 2010 Census is 45.1% Hispanic and 6.6% African American for a total of 51.7% minority population. The proposed Acacia District will be 41.5% Hispanic and 5.9% African American for a total of 47.4% minority.

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For purposes of retrogression, the bench mark as defined in the U.S. Department of Justice Guidance Concerning Redistricting and Retrogression is the 2001 Census.<sup>2</sup> In 2001, the Acacia District population included 37.05% Hispanic and 3.78% African American populations. The City has recognized the risk of retrogression and made a good faith effort to add areas from adjacent council districts into Acacia in such a manner that it would not result in significant retrogression. Unfortunately, this has resulted in some council districts not being as compact as may be preferable. Additionally, the city has made an effort to preserve as many communities of interest together as could reasonably be achieved.

The City has attempted to encourage minority voter participation by modifying its election dates to coincide with the Arizona statewide primary and general election dates, which have higher voter turnouts and the likelihood of a number of minority candidates competing for different offices.

An analysis of the City's overall population growth indicates two factors causing the retrogression. First, as Hispanic Income has risen, there are a number of moderately priced housing developments throughout the City that are affordable. The result is a dispersal of the Hispanic Population into other districts. Second, much of the growth in the City has occurred in the areas North of Bell Road and west of Lake Pleasant Parkway. Much of this growth has included higher end master planned communities such as Vistancia. Unfortunately, high housing prices in these communities have made them less affordable to residents of minority communities with lower income levels.

The City considered a number of Citizen plans and consultant plans to mitigate the retrogression. However these plans generally resulted in more retrogression in the Acacia District and created Districts that were not compact and did not follow major roadways or natural features as boundaries. Further there is not any other identifiable minority community in the City that could be linked into the Acacia District to minimize retrogression.<sup>3</sup>

At the same time, it should be noted that the City has not generally evidenced block voting that interferes with the election of minority candidates. The only election which appears to indicate some block voting based on ethnic origin was the 2008 recall election in the Acacia District. This recall election was extremely contested. The City submits that any block voting that did occur had no effect on the outcome of the election. A review of the City's history from 1954 to the present indicates the following minority individuals have been elected, with all candidates prior to 1991 being elected at large.

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<sup>2</sup> See, Federal Register, v. 66, No. 12, January 18, 2001, pp. 5412-5414.

<sup>3</sup> The City received comments from 288 people. Some of those that commented may have submitted multiple inputs or may have commented multiple times), and a total of 417 maps were submitted.

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Manuel Leyva - Hispanic (At Large) 1954 – 1979

Edmund Tang - Asian American (At Large) 1955 – 1985

James Montoya - Hispanic (At Large) 1967 – 1969

Frank Moreno - Hispanic (At Large) 1971 – 1977

Johnny Osuna - Hispanic (At Large) 1980 – 1983; 1985 - 1989  
(Acacia) 1991 – 1997

David Murillo - Hispanic (At Large) 1981 – 1985

James Saunders - African American (At Large) 1985 – 1991

Hortensia Gutierrez - Hispanic (Acacia) 1997 – 1999

Michael Patino - Hispanic (Acacia) 1999 – 2003

Tony Rivero – Hispanic (Acacia) 2010 -- Present

Finally, the City widely advertised the redistricting process. From May – August, 2001, six public hearings were held before the City Clerk and/or City Council to provide input on the plan. Citizens submitted 23 proposed plans to the City for consideration. Minority advocacy groups including but not limited to the NAACP, LULAC, Southwest Voter Registration and others were notified of the process and invited to comment. A list of all minority contacts is part of this submission in Section 51.28.h

The City would submit that the proposed redistricting maintains minority voting representation in the existing Acacia District, while avoiding violation of the other traditional community goals followed by the City in the Redistricting Process. The proposed redistricting meets several important community goals as outlined in the Final Report of National Demographics. These goals include:

1. Districts must be equal in population;
2. A strong minority district is preserved;
3. Geography and community are respected;
4. Existing council boundary lines are followed to the extent possible.

It is the City's position that this plan meets these community goals, while complying with the provisions of the Voting Rights Act as amended.

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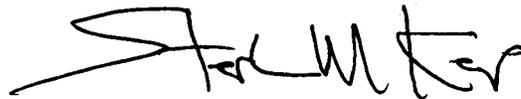
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Under the City's Charter and Ordinances, the first City Council Election under this plan is scheduled for November 6, 2012. Under Arizona Law, petitions for nomination for the position of City Council member may be circulated commencing on December 11, 2011. For those districts not holding an election in 2012, the plan will be used for the 2014 election.

In conclusion, the City would submit that this proposed districting plan meets the requirements of the Voting Rights Act and applicable case law by protecting minority rights, while providing for equal representation. Therefore, the City of Peoria would request that the Department of Justice review the proposed redistricting submission for preclearance under Section 5 of the Voting Rights Act. If you should need any additional information, please contact the undersigned.

Sincerely,

**OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA**



Stephen M. Kemp  
City Attorney

SMK/cg

Encl.

cc: Wanda Nelson, City Clerk

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ORDINANCE NO. 2011-17

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 8 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 8-5, PERTAINING TO DISTRICT BOUNDARIES AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 8 of the Peoria City Code (1992) is amended by amending Section 8-5 pertaining to District Boundaries and which shall read as follows:

**~~ACACIA DISTRICT – LEGAL DESCRIPTION~~**

**~~ACACIA DISTRICT IS DESCRIBED AS FOLLOWS:~~**

~~Beginning at the SE corner of the SW Quarter of Section 36, T3N, R1E, then Westerly along the South Section Line of Section 36, T3N, R1E, and Westerly along the South Section Line of Section 35, T3N, R1E and Westerly along the South Section Line of Section 34, T3N, R1E to the West Quarter Line of the East Quarter of Section 34, T3N, R1E (85th Avenue alignment), then North along the West Quarter Line of the East Quarter of Section 34, T3N, R1E and the West Quarter Line of the East Quarter of Section 27, T3N, R1E, to a point of intersection with the South Quarter Line of the North Quarter of Section 27, T3N, R1E (Monroe Street) then Westerly along the South Quarter Line of the North Quarter of Section 27, T3N, R1E to the West Section Line of Section 27, T3N, R1E, then Northerly to the NW corner of Section 27, T3N, R1E, then Easterly along the North Section Line of Section 27, T3N, R1E to its intersection with the centerline of 88<sup>th</sup> Drive, then Northeasterly along the centerline of 88th Drive to its intersection with the centerline of U.S. Highway 60 (Grand Avenue) then Southeasterly along the centerline of U.S. Highway 60 (Grand Avenue) to its intersection with the Midsection line of Section 22, T3N, R1E (Varney Road), then easterly along the Midsection line of Section 22, T3N, R1E to the SE Corner of the NE Quarter of Section 22, T3N, R1E, then North along the east Section Line of Section 22, T3N, R1E to the NE Corner of Section 22, T3N, R1E, then Easterly along the North Section Line of Section 23, T3N, R1E to the East Quarter Line of the West Quarter of Section 23, T3N, R1E, (81st Avenue) then South along the East Quarter Line of the West Quarter Line to a point of intersection with the centerline of Cherry Hills Dr. then East along the centerline of Cherry Hills Dr. to the mid section line of Section 23, T3N, R1E, (79th Avenue) then South along the midsection Line~~

of Section 23, T3N, R1E to the East West midsection line of Section of Section 23, T3N, R1E (Cholla Avenue) then East along the midsection Line of Sections 23 and 24 T3N, R1E to the SE Corner of the NW Quarter of Section 24 T3N, R1E, then South along the north-south midsection line of Section 24, T3N, R1E to a point of intersection with the centerline of Desert Cove Road, then West along the centerline of Desert Cove Road to a point of intersection with the centerline of 73rd Drive, then South along the centerline of 73rd Drive to the South Section Line of Section 24, T3N, R1E, then Easterly along the South Section Line of Section 24, T3N, R1E to the SE corner of the SW Quarter of Section 24, T3N, R1E, then south along the north-south midsection line of Section 25, T3N, R1E and Section 36, T3N, R1E (71st Avenue Alignment) to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.

## **IRONWOOD DISTRICT -- LEGAL DESCRIPTION**

### **IRONWOOD DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the intersection of the East Quarter Line of the West Quarter of Section 26, T4N, R1E and the North Section Line of Section 26, T4N, R1E, then Southwesterly along the East boundary of the City of Peoria to a point on the South Section Line of Section 26, T4N, R1E 65 feet east of the SW corner of Section 26, T4N, R1E, then West along the South Section Line of Section 27, T4N, R1E (Union Hills Drive) to the East Quarter Line of the West Quarter of Section 34 T4N, R1E (89th Avenue) then South along the East Quarter Line of the West Quarter of Section 34 T4N, R1E to a point intersecting with the centerline of Meadow Drive, then East along the centerline of Meadow Drive to a point on the North South Midsection line of Section 34, T4N, R1E (87th Avenue), then South along the North South Midsection line to the South Section Line of Section 34, T4N, R1E, then East along the South Section Line of Section 34 T4N, R1E (Bell Road) to the SE Corner of Section 34 T4N, R1E, then South along the East Section Lines of Sections 3 and 10 T3N, R1E to the SE Corner of Section 10, T3N, R1E, then West along the South Section Lines of Sections 10 and 9, T3N, R1E (Thunderbird Road) to the West Boundary of the City of Peoria, Arizona. Then North along the West Boundary of the City of Peoria to a point intersection with the North Right of Way Boundary for Union Hills Drive, then Westerly along the North Right of Way Boundary for Union Hills Drive to the West Section Line of Section 28, T4N, R1E, then North along the West Section line of Section 28, T4N, R1E to the NW corner of Section 28, T4N, R1E, then Easterly along the North Section Line of Section 28 T4N, R1E to the NE corner of Section 28, T4N, R1E (Beardsley Road), then North along the West Section Line of Section 22 T4N, R1E to the NW corner of Section 22, T4N, R1E, then East along the North Section Line of Section 22, T4N, R1E, to the North South Midsection Line, then South along the North South midsection line to a point intersecting with the centerline of Lone Cactus Drive, then East along the centerline of Lone Cactus Drive to its intersection with the centerline of 83rd Avenue as realigned with the Lake Pleasant Parkway, then South along the centerline of 83rd Avenue to a point intersecting with the centerline of the Lake Pleasant Parkway, then Southeasterly along the centerline of the Lake Pleasant Parkway to the South Section

~~Line of Section 22, T4N, R1E, then Easterly along the South Section Lines of Sections 22 and 23, T4N, R1E to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.~~

## MESQUITE DISTRICT -- LEGAL DESCRIPTION

### MESQUITE DISTRICT IS DESCRIBED AS FOLLOWS:

~~Beginning at a point where the East Quarter Line of the West Quarter of Section 23 T4N, R1E intersects with the South Section Line of Section 23, T4N, R1E, then East to the North-South Midsection Line of Section 23, T4N, R1E which is the East boundary of the City of Peoria, Arizona, then Northeasterly along the East boundary of the City of Peoria, Arizona to the Southeast Corner of Section 14 T4N, R1E, then North along the East Section line of Section 14 T4N, R1E, to the Northeast Corner of Section 14 T4N, R1E, then East along the South Section Line of Section 12 T4N, R1E, to the East boundary of the City of Peoria, Arizona, then North along the East Boundary of the City of Peoria, Arizona to the East-West midsection line of Section 24, T5N, R1E, then West along the midsection line of Section 24 not mid-section line T5N, R1E to a point intersecting the North Right of Way of the Central Arizona Project Canal, then Northwesterly along the North Right of Way of the Central Arizona Project Canal to the New River which is the East Boundary of the City of Peoria, Arizona, then Northeasterly along the East Boundary of the City of Peoria to a point on the East-West midsection line of Section 1, T5N, R1E, then West, Northwest and North along the East boundary of the City of Peoria to the intersection with the Maricopa County Yavapai County Line, then North along the East Section Lines of Sections 33, 28, 21, and 16, T7N, R1E, then West along the North Section Lines of Sections 16, 17 and 18, T7N, R1E, then West along the North Section Line of Section 13, T7N, R1W, then South along the West Section Line of Section 13, T7N, R1W, then West along the North Section Line of Section 23, T7N, R1W, then South along the West Section Lines of Sections 23, 26 and 35, T7N, R1W (Dysart Road Alignment) and South along the West Section Lines of Sections 2, 11, 14, 23 and 26 T6N, R1W to a point intersecting with the South Right of Way Line of State Route 74 (Wickenburg Carefree Highway), then Westerly along the South Right of Way Line of State Route 74 (Wickenburg Carefree Highway) to a point intersecting with the East Section Line of Section 32, T6N, R1W, then North along the East Section Line of Sections 32, 29, 20, 17, and 8, T6N, R1W (Bullard Avenue Alignment), then West along the North Section Lines of Sections 7 and 8, T6N, R1W, then West along the North Section Line of Section 12, T6N, R2W, then South along the West Section Lines of Sections 12, 12, 13, 24, 25, and 36, T6N, R2W (Cotton Lane Alignment) then South along the West boundary of the City of Peoria to the SW corner of Section 12, T5N, R2W, then East along the South Section Line of Section 12, T5N, R2W and East along the South Section Lines of Sections 7 and 8, T5N, R1W, then South along the West Section Lines of Sections 16 and 21, T5N, R1W, then East along the South Section Lines of Sections 21 and 22, T5N, R1W to the North-South midsection Line of Section 22, T5N, R1W, then~~

North along the midsection line to the NW corner of the SE Quarter of Section 22, T5N, R1W, then East along the midsection line to the East Section Line of Section 22, T5N, R1W, then East along the South Section Lines of Sections 14 and 13, T5N, R1W, then North along the East Section Line of Section 13, T5N, R1W, then East along the North Section Lines of Sections 18 and 17, T5N, R1E, then South along the West Boundary of the City of Peoria, Arizona to a point of intersection with the North Section Line of Section 17, T4N, R1E, then West along the North Section Line of Section 17, T4N, R1E, then South along the West Boundary of the City of Peoria, Arizona to the South Section Line of Section 30, T4N, R1E, then East along the South Section Line of Section 30, T4N, R1E, then North along the West Section Line of Section 29, T4N, R1E, then East along the North Section Lines of Sections 29 and 28, T4N, R1E, then North along the West Section Line of Section 22, T4N, R1E, then East along the North Section Line of Section 22, TN, R1E to its intersection with the North South midsection line (87<sup>th</sup> Avenue Alignment), then South along the North South midsection line to a point of intersection with the centerline of Lone Cactus Drive, then East along the centerline of Lone Cactus Drive to a point of intersection with the centerline of 83rd Avenue as realigned by Lake Pleasant Parkway, then South along the centerline of 83rd Avenue as realigned to the SW Corner of Section 23, T4N, R1E, then East along the South Section Line of Section 23, T4N, R1E to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.

**PALO VERDE DISTRICT -- LEGAL DESCRIPTION**

**PALO VERDE DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the NW corner of the East Half of Section 16, T3N, R1E, then Easterly along the North Section Line of Sections 16, 15 and 14 T3N, R1E, to the NE corner of Section 14 T3N, R1E, the South along the East Section Line of Section 14 T3N, R1E (75<sup>th</sup> Avenue) to the SE corner of said Section 14 T3N, R1E, then Easterly along the North Section Line of Section 24, T3N, R1E (Cactus Road) to the NE corner of the West Half of Section 24, T3N, R1E, then Southerly along the midsection line of Section 24 T3N, R1E to the SE Corner of the NW Quarter of Section 24 T3N, R1E, then Westerly along the Mid Section Line of Sections 24 and 23, T3N, R1E to the SW corner of the NE Quarter of Section 23, T3N, R1E, then Northerly along the midsection line to the center of the intersection with Cherry Hills Dr. then west down the center line of Cherry Hills Dr. to the East Quarter Line of the West Quarter of Section 23, T3N, R1E, which is 81<sup>st</sup> Avenue, then North along the East Quarter Line to the Intersection with the North Section Line of Section 23, T3N, R1E, then West along the North Section Line to the NW corner of Section 23, T3N, R1E, then South along the West Section Line of Section 23, T3N, R1E to the midsection line of Section 23, T3N, R1E (Varney Avenue), then Westerly along the Midsection line of Section 22, T3N, R1E to the centerline of U.S. Highway 60 (Grand Avenue), then Northwest along the Centerline of U.S. Highway 60 (Grand Avenue) to its intersection with 88th Drive, then South along the centerline of 88th Drive to its intersection with the South Section Line of Section 22, T3N, R1E (Peoria Avenue), then West along the

~~South Section Line of Sections 22 and 21, T3N, R1E, to the West Right of Way Line for State Route 101L (Agua Fria Freeway), the North along the West Right of Way for State Route 101L (Agua Fria Freeway) to an intersection point with the extension of the centerline of the Scotland Avenue Alignment, then West along the Center Line of the Scotland Avenue Alignment to the West boundary of the City of Peoria, Arizona, then North along the West Boundary of the City of Peoria Arizona to the point of beginning. Excluding those areas, which are not incorporated within the City of Peoria.~~

#### **PINE DISTRICT--LEGAL DESCRIPTION**

#### **PINE DISTRICT IS DESCRIBED AS FOLLOWS:**

~~Beginning at the NW corner of Section 31 T3N, R1E, then South along the West Boundary of the City of Peoria, Arizona to the South Section Line of Section 31, T3N, R1E, then Easterly along the South Section Lines of Sections 31, 32, 33, and 34, all T3N, R1E to the West Quarter Line of the East Quarter of Section 34, T3N, R1E (85th Avenue Alignment) then North along the West Quarter Line of the East Quarter of Section 34, T3N, R1E and the West Quarter Line of Section 27 T3N, R1E to the intersection with the South Quarter Line of the North Quarter of Section 27 T3N, R1E (Monroe Street), The West along the South Quarter Line of the North Quarter of Section 27 T3N, R1E to its intersection with the West Section Line of Section 27, T3N, R1E, then North along the West Section Line of Section 27, T3N, R1E to the NW corner of Section 27, T3N, R1E, then West along the North Section Line of Section 28, T3N, R1E intersects with the West Boundary of the Right of Way Line of State Route 101L (Agua Fria Freeway), then North along the West Boundary of State Route 101L (Agua Fria Freeway) to a point intersecting the Centerline of the Scotland Avenue alignment, then West along the Scotland Avenue Alignment to the West Boundary of the City of Peoria, Arizona, then Southerly the West Boundary of the City of Peoria Arizona to the SE Corner of the NW Quarter of Section 21, T3N, R1E, then West along the South midsection line of Section 21, T3N, R1 E to the West Boundary of the City of Peoria, Arizona, then South along the West Boundary of the City of Peoria to the North Right of Way Line of Olive Avenue, then West along the North Right of Way line of Olive Avenue to a point intersecting with the realigned West Right of Way Line of 99th Avenue, then South along the West Right of Way Line of 99<sup>th</sup> Avenue to the South Right of Way Line of Olive Avenue, then West along the South Right of Way Line of Olive Avenue to the point of beginning. boundary of the City of Peoria to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.~~

**WILLOW DISTRICT--LEGAL DESCRIPTION**

**WILLOW DISTRICT IS DESCRIBED AS FOLLOWS:**

~~Beginning at a point 65 feet East of the NW Corner of Section 35 T4N, R1E, then South 65 feet to the South Right of Way Line of Union Hills Road, then West to the East Section Line of Section 34, T4N, R1E, Then South to the SE Corner of Section 34, T4N, R1E, then South along the East Section Line 65 feet to the South Right of Way Line of Bell Road, then East along the South Right of Way Line of Bell Road to the East Quarter Line of the West Quarter of Section 1, T3N, R1E, then South along the East Quarter Line of the West Quarter of Section 1, T3N, R1E to a point of intersection with the North Right of Way for the Arizona Canal, then Southeasterly along the North Right of Way for the Arizona Canal to the East Boundary of the City of Peoria, Arizona, being the East Boundary of the Right of Way of 67th Avenue, then South along the East Boundary of the Right of Way of 67th Avenue to the South Section Line of Section 25, T3N, R1E, then South 65 feet to the South Right of Way Boundary of Olive Avenue, then West along the South Right of Way Boundary of Olive Avenue to the North-South Midsection Line of Section 36, T3N, R1E, then North along the North-South Mid Section Lines of Sections 36 and 25 T3N, R1E to the NW corner of the NE Quarter of Section 25 T3N, R1E, then West along the North Section Line of Section 25 T3N, R1E to the intersection with the center line of 73rd Drive, then North along the centerline of 73rd Drive to the intersection with the centerline of Desert Cove Road, then East along the center line of Desert Cove Road to the North-South Midsection line of Section 24 T3N, R1E, then North along the midsection line to the North Section Line of Section 24 T3N, R1E, then West along the North Section Line of Section 24, T3N, R1E to the NW Corner of Section 24, T3N, R1E, then North along the West Section Line of Section 13, T3N, R1E to the NW corner of Section 13, T3N, R1E, then West along the South Section Line of Section 11, T3N, R1E to the SW Corner of Section 11, T3N, R1E, then North along the East Section Lines of Sections 11 and 2, T3N, R1E to the NW Corner of Section 2, T3N, R1E, then West along the South Section Line of Section 34 T4N, R1E to the SW Corner of the SE Quarter of Section 34, T4N, R1E, then North along the MidSection Line of Section 34, T4N, R1E to its intersection with the centerline of Meadow Drive, then West along the centerline of Meadow Drive to its intersection with the East Quarter Line of the West Quarter of Section 34, T4N, R1E (89th Avenue), then North along the East Quarter Line of the West Quarter of Section 34, T4N, R1E to the North Section Line, then Easterly along the North Section Line of Sections 34 and 35 T4N, R1E to the point of beginning. Excluding those areas, which are not incorporated within the City of Peoria.~~

**ACACIA DISTRICT -- LEGAL DESCRIPTION**

**ACACIA DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the SE corner of the SW Quarter of Section 36, T3N, R1E, then Westerly along the South Section Line of Section 36, T3N, R1E, and Westerly along the South Section Line of Section 35, T3N, R1E and Westerly along the South Section Line of Section 34, T3N, R1E to the North-South Mid Section Line of Section 34, T3N, R1E (87th Avenue alignment), then North along the North-South Mid Section Line of Section 34 and Section 27, all in T3N, R1E, to a point of intersection with the Center Line for Cinnabar Avenue, then West along the Center Line for Cinnabar Avenue to its intersection with the East Line of the SW Quarter of the NW Quarter of Section 27, T3N, R1E (89th Avenue alignment), then North along the East Line of the SW Quarter of the Northwest Quarter of Section 27, T3N, R1E to its intersection with the South Line of the NW Quarter of the NW Quarter of Section 27, T3N, R1E (Monroe Street) then Westerly along the South Line of the NW Quarter of the NW Quarter of Section 27, T3N, R1E to the West Section Line of Section 27, T3N, R1E, then Northerly to the NW corner of Section 27, T3N, R1E, then Northerly along the West Section Line of Section 22, T3N, R1E, to a point of intersection with the Center Line for Yucca Street, then Easterly along the Center Line for Yucca Street to its intersection with the Center Line of 88th Drive, then Northeasterly along the Center Line of 88th Drive to its intersection with the South Right of Way Line of U.S. Highway 60 (Grand Avenue) then Southeasterly along the South Right of Way Line of U.S. Highway 60 (Grand Avenue) to its intersection with the East-West Midsection line of Section 22, T3N, R1E (Varney Road), then easterly along the East-West Midsection line of Section 22, T3N, R1E to the SE Corner of the NE Quarter of Section 22, T3N, R1E, then North along the East Section Line of Section 22, T3N, R1E to the NE Corner of Section 22, T3N, R1E, then Easterly along the North Section Line of Section 23, T3N, R1E to the East Mid Section Line of the West Half of Section 23, T3N, R1E, (79st Avenue) then South along the East Mid Section Line of the West Half of Section 23, T3N, R1E, to a point of intersection with the Center Line of Jenan Drive then East along the Center Line of Jenan Drive to a point of intersection with the Center Line for 77th Drive, then South along the Center Line of 77th Drive to a point of intersection with the East-West mid section line of Section 23, T3N, R1E, (Cholla Street) then East along the midsection Line of Sections 23 and 24 T3N, R1E to the SE Corner of the NW Quarter of Section 24 T3N, R1E, then South along the north-south midsection line of Section 24, T3N, R1E to a point of intersection with South Section Line of Section 24, T3N, R1E, then East along the South Section Line of Section 24, T3N, R1E to the SE corner of Section 24, T3N, R1E, then South along the East Section Line of Section 25, T3N, R1E, to the SE Corner of Section 25, T3N, R1E, Then West along the South Section Line of Section 25 to the SW Corner of the SE Quarter of Section 25, T3N, R1E, then South along the North-South mid section Line of Section 36, T3N, R1E, (71st Avenue Alignment) to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.

**IRONWOOD DISTRICT -- LEGAL DESCRIPTION**

**IRONWOOD DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the intersection of the South Section Line of Section 10, T3N, R1E with the West Right of Way Line for State Route 101 (Agua Fria Freeway), then West along the South Section Line of Section 10 T3N, R1E to a point of intersection with West Boundary of the City of Peoria, Arizona, then North along the West Boundary of the City of Peoria, Arizona to a point of intersection with the North Right of Way Line for Union Hills Drive, then Westerly along the North Right of Way Line for Union Hills Drive to the West Section Line of Section 28, T4N, R1E, then North along the West Section line of Section 28, T4N, R1E to a point of intersection with the South Right of Way Line for Beardsley Road, then West along the South Right of Way Line for Beardsley Road to a point of intersection with the West Right of Way Line for Lake Pleasant Road, then Northerly along the extension of the West Right of Way Line for Lake Pleasant Road to a point of intersection with the West Right of Way Line of Lake Pleasant Parkway, then Northerly along the West Right of Way Line of Lake Pleasant Parkway to a point of intersection with the North Section Line of Section 20, T4N, R1E, then East along the North Section Line of Section 20, T4N, R1E to the NE Corner of Section 20, T4N, R1E, then East along the North Section Line of Section 21, T4N, R1E, to the NE Corner of Section 21, then South along the East Section Line of Section 21, T4N, R1E to a point of intersection with the South Right of Way Line for Lake Pleasant Parkway, then Southeasterly along the South Right of Way Line for Lake Pleasant Parkway to a point of intersection with the South Section Line of Section 22, T4N, R1E, then South along the West Right of Way Line for Lake Pleasant Parkway/83rd Avenue to a point of intersection with the North Right of Way Line for Union Hills Drive, then West along the North Right of Way of Union Hills Drive to a point of intersection with the North-South Midsection Line of Section 27 T4N, R1E and Section 34, T4N, R1E, the NW corner of Section 28, T4N, R1E, then South along the North-South Midsection line (87th Avenue) to the South Right of Way Line of Bell Road, then East along the South Right of Way Line of Bell Road to a point of intersection with the West Right of Way Line of State Route 101 (Agua Fria Freeway), then South along the West Right of Way Line of State Route 101 to a point of intersection with the North Section Line of Section 10, T3N, R1E, then West Along the North Section Line of Section 10, T3N, R1E to a point which is 973.88 Feet West of the Northeast Corner of Section 10, then South 659.40 Feet, then East 107.41 feet to a point of intersection with the West Right of Way Line for State Route 101 (Agua Fria Freeway), then South along the West Right of Way Line for State Route 101 to the point of beginning. To the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.

**MESQUITE DISTRICT -- LEGAL DESCRIPTION**

**MESQUITE DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the SE corner of Section 12, T4N, R1E, then West along the South Section Line of Section 12, T4N, R1E to the SW Corner of Section 12 T4N, R1E, Then North along the West Section Line of Section 12, T4N, R1E to a point of intersection that is 1323.24 feet south of the NW Corner of Section 12, T4N, R1E, then Westerly along said line to a point of intersection with the Centerline of 83rd Avenue, then South along the Centerline of 83rd Avenue to the SW Corner of the NW Quarter of Section 11, T4N,R1E, then West along the East -West Midsection Line of Sections 10, 9 and 8, T4N, R1E (Calle Lejos Drive) to the West Section Line of Section 8, T4N,R1E, then North along the West Section Line of Section 8, T4N, R1E, to a point of intersection with the Centerline of Hatfield Road, then West along the Center line of Hatfield Road to a point of intersection with the Center Line of 109th Avenue, then North along the Centerline of 109th Avenue to a point of intersection with the South Section Line of Section 31, T5N, R1E, then Westerly along the South Section Line of Section 31, T5N, R1E and the South Section Line of Sections 36 and Section 35 all in T5N, R1W to a point of intersection with the South Right of Way Line of the Beardsley Canal, then Westerely along the South Right of Way Line of the Beardsley Canal to a point of intersection with the West Section Line of Section 2, T4N,R1W, then North along the West Section Line of Section 2, T4N, R1W and the West Section Line of Section 35 to a point of intersection with the East-West Midsection Line of Section 34, T5N, R1W, then West along the East-West Midsection Line of Section 34, T5N, R1W to the SW Corner of the NE Quarter of Section 34, T5N, R1W, then North along the North-South Midsection line of Section 34 to the NW corner of the NE Quarter of Section 34, T5N, R1W, then West along the North Section Line of Section 34, to the NW Corner of Section 34, T5N, R1W, then North along the West Section Line of Section 27, T5N, R1W, to the NW corner of Section 27, then West along the South Section Line of Sections 21 and 20, all in T5N, R1W to the SW corner of Section 20, then North along the West Section Line of Sections 20 and 17, all in T5N, R1W to the NW Corner of Section 17, then West along the South Section Line of Section 7, T5N, R1W and West along the South Section Lines of Sections 12 and 11, T5N, R2W, Then North along the West Section Lines of Sections 11 and 2, all in T5N, R2W (Citrus Road Lane Alignment), then North along the West Section Lines of Sections 35 and 26, T6N, R2W to a point of intersection with North Right of Way Line of State Route 74 (Morristown-New River Highway), then Southeasterly along the North Right of Way Line of State Route 74 to a point of intersection with the West Section Line of Section 25, T6N, R2W (Cotton Lane Alignment), then North along the West Section Lines of Section 25, 24, 13 and 12 all in T6N, R2W, to the NW corner of Section 12, then East along the North Section Line of Section 12, T6N, R2W and East along the North Section Lines of Sections 7 and 8 all in T6N, R1W to the NE corner of Section 8, then South along the East Section Lines of Section 8, 17, 20, 29 and 32 all in T6N, R1W to a point of intersection with the North Right of Way of State Route 74, then East along the North Right of Way of State Route 74 to a point of intersection with the West Section Line of

Section 26, T6N, R1W, then North along the West Section Lines of Sections 26, 23, 14, 11 and 2 all in T6N, R1W, to a point of intersection with the Maricopa-Yavapai County Line, then North along the West Section Line of Sections 35, 26 and 23, all in T7N, R1W to the NW Corner of Section 23, T7N, R1W, then East along the North Section Line of Section 23, T7N, R1W to the NE Corner of Section 23, T7N, R1W, then North along the West Section Line of Section 13, T7N, R1W to the NW Corner of Section 13, Then East along the North Section Line of Section 13, T7N, R1W to the NE Corner of Section 13, T7N, R1W, then North along the West Section Line of Section 18, T7N, R1E to the NW Corner of Section 18, T7N, R1E, then East along the North Section Line of Sections 18, 17 and 16, all in T7N, R1E to the NE Corner of Section 16, T7N, R1E, then South along the East Section Lines of Sections 16, 21, 28 and 33, all in T7N, R1E to a point of intersection with the Maricopa-Yavapai County Line, then South along the Maricopa-Yavapai County Line to a point of intersection with the North Section Line of Section 4, T6N, R1E, then East along the North Section Lines of Sections 4, 3 and 2, all in T6N, R1E to the NE corner of Section 2, T6N, R1 E, then South along the East Section Line of Sections 2, 11, 14, 23 and 26 all in T6N, R1E to a point of intersection with the Centerline of New River Road, then Southerly along the Centerline of New River Road to a point of intersection with South Section Line of Sections 26 and 27, T6N,R1E, then West along the South Section line of Sections 26 and 27, T6N, R1E, then West along the South Section line of Sections 26 and 27 T6N, R1E to a point of intersection with the East City Boundary of the City of Peoria, Arizona, then Southeasterly along the East City Boundary of the City of Peoria, Arizona in Section 34, T6N, R1E to a point of intersection with the South Section Line of Section 34 T06N R01E (intersection being referenced as a point on the south section line of Section 34 T06N R01E that is ½ Mile EAST of the centerline of Lake Pleasant Road (now known as State Route 74), then East to the SW corner of Section 35, T6N, R1E then South along the West Section Line of Section 2, T5N, R1E, to a point of intersection with the SW Corner Lot 4 of Section 02 T05N R01E, then East along the South Line of Lot 4 to the SE Corner of Lot 4 of Section 02 T05N R01E, then South along the East Line of the SW ¼ NW ¼ of Section 02 T05N R01E to a point of intersection with the East-West Midsection Line of Section 2, T5N, R1E, then East along the midsection line of Sections 2 and 1, T5N, R1E, to a point of intersection with the West Bank of the New River, then Southerly along the West Bank of the New River to a point of intersection with the North Right of Way of the Central Arizona Project Canal, then Southeasterly along the North Right of Way of the Central Arizona Project Canal to a point of intersection with East-West mid section line of Section 24, T5N,R1E, then East along the East-West midsection line to a point of intersection with East Section Line of Section 24, T5N, R1E, then Southerly along the East Section Line of Sections 24, 25 and 36, all T5N, R1E and the East Section Line of Sections 1 and 12, T4N, R1E to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.

**PALO VERDE DISTRICT -- LEGAL DESCRIPTION**

**PALO VERDE DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the SE corner of Section 24, T3N, R1E, then Westerly along the South Section Line of Section 24 to the SW corner of the SE Quarter of Section 24, T3N, R1E, then North along the North-South Midsection Line (71st Avenue) to the NW corner of the SE Quarter of Section 24, T3N, R1E, then West along the East-West Midsection Line (Cholla Street) of Sections 24 and 23, T3N, R1E, to a point of intersection with the Center Line of 77th Drive, then North along the Center Line of 77th Drive to a point of intersection with the Center Line of Jenan Drive, then West along the Center Line of Jenan Drive to a point of intersection with the North-South Midsection Line of Section 23, T3N, R1E (79th Avenue), then North along the North South Midsection Line of Section 23, T3N, R1E to a point of intersection with the North Section Line of Section 23, T3N, R1E (Cactus Road), then West along the North Section Line of Sections 23 and 22, T3N, R1E to the NW corner of Section 22, T3N, R1E, then South along the West Section Line of Section 22, T3N, R1E (91st Avenue) to a point of intersection with the South Right of Way Line of US 60 (Grand Avenue), then Northwesterly along the South Right of Way Line of US 60 to a point of intersection with the West Right of Way Line of State Route 101 (Agua Fria Freeway), then Northeasterly along the West Right of Way Line of State Route 101 (Agua Fria Freeway) to a point of intersection with the South Bank of Skunk Creek, then Northeasterly along the South Bank of Skunk Creek to a point of intersection with the West extension of the North Right of Way Line of Tierra Buena Lane. Then East along the North Right of Way Line of Tierra Buena Lane to a point of intersection with the East Section Line of Section 2, T3N, R1E (75th Avenue), then North along the East Section Line of Section 2, T3N, R1E, to a point of intersection with the Center Line of Paradise Lane, then Westerly along the Center Line of Paradise Lane to a point of intersection with the Center Line of 83rd Avenue, then North along the Center Line of 83rd Avenue to a point of intersection with the South Right of Way Line of Bell Road, then East along the South Right of Way Line of Bell Road to a point of intersection with the East Line of Lot 4 of Section 1, T3N, R1E, which is the East Boundary of the City of Peoria, Arizona, then Southerly along the East Boundary of the City of Peoria to a point of intersection with the North Right of Way of the Arizona Canal, then Southeasterly along the North Right of Way of the Arizona Canal to a point of intersection with the East Section Line of Section 12, T3N, R1E, then South along the East Section Line of Sections 12, 13, and 24 T3N, R1E (67th Avenue) to the point of beginning. Excluding those areas, which are not incorporated within the City of Peoria.

**PINE DISTRICT--LEGAL DESCRIPTION**

**PINE DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at the SE corner of the SW Quarter of Section 34 T3N, R1E, then West along the South Section Line of Section 34, T3N, R1E to the SW corner of Section 34, Then West along the South Section Lines of Sections 33, 32, and 31 all T3N, R1E to the SW corner of Section 31, T3N, R1E, then North along the West Section Line of Section 31, T3N, R1E to a point of intersection with the South Right of Way Line for Olive Avenue, then East along the South Right of Way line for Olive Avenue to a point of intersection with the West Right of Way Line for 99th Avenue, as realigned, then North along the West Right of Way Line for 99th Avenue, as realigned to a point of intersection with the North Right of Way Line for Olive Avenue, then East along the North Right of Way Line for Olive Avenue to a point of intersection with the West Section Line of Section 28 T3N, R1E, then North along the West Section Line of Section 28, T3N, R1E and the West Section Line of Section 21 T3N, R1E, to a point of intersection with the NW Corner of the SW Quarter of Section 21, T3N, R1E, then East along the East-West Midsection Line of Section 21, T3N, R1E, to the NE corner of the SW Quarter of Section 21, T3N, R1E, then North along the North South Midsection Line of Sections 21 and 16, T3N, R1E to a point of intersection with the South Section Line of Section 9, T3N, R1E, then East along the South Section Line of Sections 9 and 10, T3N, R1E to a point of intersection with the West Right of Way Line of State Route 101 (Agua Fria Freeway) then South along the West Right of Way Line of State Route 101 to a point of intersection with the South Right of Way of US 60 (Grand Avenue), then Southerly along the South Right of Way of US 60 to a point of intersection with the West Section Line of Section 22, T3N, R1E, then North along the West Section Line of Section 22, T3N, R1E, to the NW corner of Section 22, then East along the North Section Line of Section 22, T3N, R1E, to the NE corner of Section 22, then South along the East Section Line of Section 22, T3N, R1E, to the SE corner of the NE quarter of Section 22, T3N, R1E, then West along the East-West midsection line of Section 22 to a point of intersection with the South Right of Way Line of US 60 (Grand Avenue), then Northwesterly along the South Right of Way Line of US 60 to a point of intersection with the Center Line of 88th Drive, then Southerly along the Center Line of 88th Drive to a point of intersection with the Center Line of Yucca Street, then West along the Center Line of Yucca Street to a point of intersection with the West Section Line of Section 22, T3N, R1E, then South along the West Section Lines of Sections 22 and 27, T3N, R1E to a point of intersection with the SW corners of the NW Quarter of the NW Quarter of Section 27, T3N, R1E, then East along the South Line of the NW Quarter of the NW Quarter Section 27, T3N, R1E (Monroe Street), to a point of intersection with the SE Corner of the NW Quarter of the NW Quarter of Section 27, T3N, R1E, then South along the East Line of the SW Quarter of the NW Quarter of Section 27, T3N, R1E(89th Avenue) to a point of intersection with the Center Line of Cinnabar Avenue, then East along the Center Line of Cinnabar Avenue to a point of intersection with the North South Midsection Line of Section 27, T3N, R1E (87th

Avenue), then South along the North-South Midsection Line of Sections 27 and 34, T3N, R1E to the point of beginning. Excluding those areas which are not incorporated within the City of Peoria.

#### **WILLOW DISTRICT--LEGAL DESCRIPTION**

#### **WILLOW DISTRICT IS DESCRIBED AS FOLLOWS:**

Beginning at a point at the intersection of the North Right of Way Line of Tierra Buena Lane and the East Section Line of Section 2, T3N, R1E (75th Avenue), then West along the North Right of Way Line of Tierra Buena Lane as extended to its intersection with the South Bank of Skunk Creek, then Southwesterly along the South Bank of Skunk Creek to a point of intersection with the West Right of Way of State Route 101), then North along the West Right of Way Line of State Route 101 to a point of intersection with the South Right of Way Line of Bell Road, then West along the South Right of Way Line of Bell Road to a point of intersection with the North-South Midsection Line of Section 3, T3N, R1E (87th Avenue Alignment), then North along the North-South Midsection Line of Section 3, T3N, R1E, and the North-South MidSection Line of Sections 34 and 27 all in T4N, R1E to a point of intersection with the North Right of Way Line of Union Hills Drive, then East along the North Right of Way Line of Union Hills Drive to a point of intersection with the West Right of Way Line for 83rd Avenue/Lake Pleasant Parkway, then North and West along the West Right of Way Line for 83rd Avenue/Lake Pleasant Parkway to a point of intersection with the East Section Line of Section 21, T4N, R1E, then North along the East Section Line of Section 21, T4N, R1E to the NE Corner of Section 21, then West along the North Section Line of Sections 21 and 20, all in T4N, R1E to a point of intersection with the West Right of Way Line of Lake Pleasant Parkway, then South along the West Right of Way Line of Lake Pleasant Parkway to a point of intersection with the West Right of Way Line of Lake Pleasant Road, then South along the West Right of Way Line of Lake Pleasant Road to a point of intersection with the South Right of Way Line of Beardsley Road, then West along the South Right of Way Line of Beardsley Road to a point of intersection with the East Right of Way Line of 107th Avenue, then South along the East Right of Way Line of 107th Avenue to a point of intersection with the South Section Line of Section 29, T4N, R1E, then West along the South Section Line of Sections 29 and 30, all in T4N, R1E to a point of intersection with the SW Corner of the SE Quarter of the SW Quarter of Section 30 T4N, R1E, then north along the West line of the SE Quarter of the SW Quarter of Section 30 as extended to a point of intersection with the North Section Line of Section 30, T4N, R1E, then West along the North Section Line of Section 30, T4N, R1E to a point of intersection with the centerline of 112th Avenue, then North along the centerline of 112th Avenue to a point of intersection with the East-West Midsection Line of Section 19, T4N, R1E, then East along the East-West Midsection line of Section 19 to a point of intersection with the SW Corner of the SE Quarter of the NE Quarter of Section 19, T4N, R1E, then North along the West Line of the SE Quarter of the NE Quarter of Section 19, T4N, R1E and continuing North along the West Line of

the NE Quarter of the NE Quarter of Section 19 T4N, R1E to the SW Corner of the SE Quarter of the SE Quarter Section 18, T4N, R1E, then continuing North along the West line of both the SE Quarter of the SE Quarter and the NE Quarter of the SE Quarter all in Section 18, T4N, R1E to a point of intersection with the East-West Midsection Line of Section 18, which is the NW Corner of the NE Quarter of the SE Quarter of Section 18, T4N, R1E, then East following the East-West Midsection Line, to a point of intersection with the East Section Line of Section 18, T4N,R1E, then North along the East Section Line of Section 18, T4N, R1E to the NE Corner of Section 18, then East along the North Section Line of Section 17, T4N, R1E to a point of intersection with the center line extension of the 101st Avenue Alignment,(intersection corresponding to the NE Corner for the NW Quarter of the NE Quarter of Section 17, T4N, R1E) then North along the extension of the 101st Avenue alignment to a point of intersection with the West extension of the center line of the Camino Del Oro Alignment, then East along the Camino Del Oro alignment to a point of intersection with the West Right of Way Line for Lake Pleasant Parkway, then South along the West Right of Way Line for Lake Pleasant Parkway to a point of intersection with the extension of the center line for Electra Lane, then East along the extension of the Center Line of Electra Lane to the West Boundary of the City of Peoria, then North along the West Boundary of the City of Peoria to the East-West Midsection Line of Section 8, T4N, R1E, then East along the East-West Midsection Line of Sections 8, 9 and 10 all in T4N, R1E to a point of intersection with the Centerline of 83rd Avenue, then North along the Centerline of 83rd Avenue to a point which is 1323.24 feet south of the North Section Line of Section 11, T4N,R1E, then East along this line to a point of intersection with the East Section line of Section 11, T4N, R1E, then South along the East Section Lines of Sections 11 and 14, all in T4N, R1E to the SE Corner of Section 14, Then East along the South Line of Section 14 to the East Boundary of the City of Peoria, Arizona, Then Southwesterly along the East Boundary of the City of Peoria, Arizona to a point of intersection with the North-South Midsection Line of Section 23, T4N, R1E, then South along the North-South Midsection Line of Section 23, T4N, R1E to the SE corner of the SW Quarter of Section 23, T4N, R1E, then West along the South Section Line of Section 23, T4N, R1E to a point of intersection with the West bank of the New River, then Southwesterly along the West Bank of the New River to a point of intersection with the East –West Midsection Line of Section 26, T4N, R1E, then West along the East-West Midsection Line of Section 26, T4N, R1E to a point of intersection with the East Boundary of the City of Peoria, Arizona, then South along the East Boundary of the City of the City of Peoria, Arizona to a point of intersection with the South Right of Way Line for Union Hills Drive, then West along the South Right of Way Line for Union Hills Drive to a point of intersection with the East Section Line of Section 34, T4N, R1E, then South along the East Section Line of Section 34, T4N, R1E to a point of intersection with the SE Corner of the NE Quarter of the SE Quarter of Section 34, T4N, R1E, then West along the South Line of the NE Quarter of the SE Quarter of Section 34, T4N, R1E to a point of intersection with the West Bank of the New River, then South along the West Bank of the New River to a point of intersection with the North Right of Way Line of Bell Road, then East along the North Right of Way Line of Bell Road to a point of intersection with the West Right of Way Line of State Route 101

(Agua Fria Freeway), then North along the West right of way line to a point of intersection with the East Section Line of Section 34, T4N, R1E, then South along the East Section line of Section 34, T4N, R1E and Section 3, T3N, R1E to a point of intersection with the South Right of Way Line for Bell Road, then East along the South Right of Way Line for Bell Road to a point of intersection with centerline of 83rd Avenue, then South along the centerline of 83rd Avenue to a point of intersection with the Centerline of Paradise Lane, then East along the Centerline of Paradise Lane to a point of intersection with the East Section Line of Section 2, T3N, R1E (75th Avenue) then South along the East Section Line of Section 2, T3N, R1E to the point of beginning. Excluding those areas, which are not incorporated within the City of Peoria.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 6<sup>th</sup> day of September, 2011.

Dated: 9/11/2011

Bob Barrett  
Bob Barrett, Mayor

ATTEST:  
Wanda Nelson  
Wanda Nelson, City Clerk



APPROVED AS TO FORM:  
Stephen M. Kemp  
Stephen M. Kemp, City Attorney

Ordinance No. 2011- 17

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## City of Peoria

### *Office of the City Attorney*

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September 30, 2011

Chief, Voting Section,  
Civil Rights Division  
U.S. Department of Justice  
Room 7254-NWB, 950 Pennsylvania Avenue, NW  
Washington DC 20530

Re: 51.27(c)

Dear Sir or Madam:

**In accordance with the requirements contained within Section 51.27(c) of the Code of Federal Regulations the purpose of this letter is to identify the change affecting voting for which preclearance is being requested.**

**In order to maintain compliance with federal law the City of Peoria has completed the necessary processes to adjust City Council boundaries in accordance with redistricting requirements.**

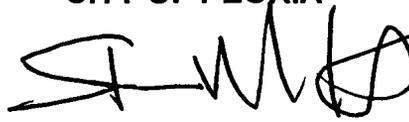
**The purpose of this process was to redraw City Council District boundaries in order to more evenly distribute the population throughout the 6 City Council Districts. Due to the anticipated future growth within the northern areas of the City to the extent growth is anticipated over the next several years the northern council districts were slightly under populated in order to compensate for the expected future growth. Every effort was made to avoid retrogression where possible and to keep communities of interest within the same council district.**

**A more detailed account of the district boundary changes are contained within the maps within Section 51.28(b) of this submittal.**

Letter to U.S. Department of Justice  
September 30, 2011  
Page 2 of 2

Sincerely,

**OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA**

A handwritten signature in black ink, appearing to read 'S. Kemp', with a stylized flourish at the end.

Stephen Kemp  
City Attorney

193716.a01.docx



## City of Peoria

### Office of the City Attorney

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Civil/Risk Phone: 623-773-7330 • Fax: 623-773-7043

Criminal/Victim's Assistance Phone: 623-773-7326

Criminal/Victim's Assistance Fax: 623-773-7323

E-Mail: [cityattorney@peoriaaz.gov](mailto:cityattorney@peoriaaz.gov)

September 30, 2011

Chief, Voting Section,  
Civil Rights Division  
U.S. Department of Justice  
Room 7254-NWB, 950 Pennsylvania Avenue, NW  
Washington DC 20530

Re: 51.27(d)(e)(g)

Dear Sir or Madam:

The individual responsible for making this submission is Stephen Kemp in his official capacity as the City of Peoria City Attorney. The telephone number for the City Attorney's Office is 623-773-7330. Mr. Kemp's mailing address is:

City of Peoria – City Attorney's Office  
8401 W. Monroe St.  
Peoria, AZ 85345

The City of Peoria is the submitting authority and the jurisdiction responsible for this redistricting submission. The City of Peoria, Arizona is located in Maricopa and Yavapai Counties in the State of Arizona. As all but a minute number of voters (estimated 3) reside in Maricopa County, the City works with Maricopa County on election matters that are within the authority of the County.

The body responsible for the change is the City of Peoria City Council. The change was made as a result of an Ordinance passed by the City Council.

Sincerely,

OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

  
Stephen Kemp  
City Attorney



## City of Peoria

### *Office of the City Attorney*

8401 W. Monroe Street, Peoria Arizona 85345

*Civil/Risk Phone: 623-773-7330 • Fax: 623-773-7043*

*Criminal/Victim's Assistance Phone: 623-773-7326*

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*E-Mail: [cityattorney@peoriaaz.gov](mailto:cityattorney@peoriaaz.gov)*

September 30, 2011

Chief, Voting Section,  
Civil Rights Division  
U.S. Department of Justice  
Room 7254-NWB, 950 Pennsylvania Avenue, NW  
Washington DC 20530

Re: 51.27(h)

Dear Sir or Madam:

**The City of Peoria has been granted the authority to undertake the redistricting process pursuant to Article 2, Section 2 of the Peoria City Charter, which is attached.**

**The City of Peoria underwent the following procedures during the redistricting process as reviewed with the City Council.**

**First Review of Redistricting Process with the Peoria City Council  
June 2010**

**Competitively solicit proposals for a redistricting consultant  
August – September 2010**

**City Council Selection of National Demographics Corporation as the City's  
redistricting consultant  
October 2010**

**Issuance of Initial Citizen Kit and Redistricting Information Packet  
December 2010**

**Commence operation of Redistricting Website to provide on-line access to information**  
**12/2/2011**

Seven meetings, one in each council district to solicit public input on communities of interest, geographic and physical constraints and other concerns on redistricting and outlining the process as well as a meeting to solicit feedback from minority contact groups.

<u>Location</u>	<u>District</u>	<u>Date</u>
Minority Contact – City Hall	Entire City	1/24/2011
Peoria City Hall	Acacia	1/26/2011
Sun Valley Elementary School	Pine	1/26/2011
Oasis Elementary School	Palo Verde	2/7/2011
Oakwood Elementary School	Willow	2/7/2011
Desert Harbor Elementary School	Ironwood	2/9/2011
Sunrise Mountain Library	Mesquite	2/9/2011

Prepare Follow up citizen kit containing Census information and Maps for citizen comment  
**May 2011**

Three public meetings are held to review the six initial redistricting proposals and to obtain public input and comment

<u>Location</u>	<u>Date</u>
South Meeting – City Hall	5/11/2011
North Meeting – Christ Church of the Valley	5/11/2011
Middle Meeting – Peoria Lighthouse Church	5/12/2011

City Council meeting to discuss obtaining three additional maps based on maintaining incumbent council members in their respective districts.  
**Study Session Meeting - 5/31/2011**

City Council meeting to discuss selecting three final maps for further consideration  
**Study Session Meeting – 6/7/2011**

Three public meetings are held to review the additional three redistricting proposals and to obtain public input and comment.

Letter to U.S. Department of Justice  
September 30, 2011  
Page 3 of 3

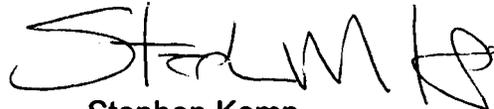
<u>Location</u>	<u>Date</u>
South Meeting – Community Center	6/14/2011
Middle Meeting – Rio Vista Recreation Center	6/14/2011
North Meeting – Sunrise Mountain Library	6/15/2011

**Additional Public input and comment obtained between City Council Meeting**

**City Council meeting to select final concept, obtain public input and comment  
and direct staff to prepare an ordinance to implement concept  
7/5/2011**

Sincerely,

**OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA**



Stephen Kemp  
City Attorney

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## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Civil/Risk Phone: 623-773-7330 • Fax: 623-773-7043

Criminal/Victim's Assistance Phone: 623-773-7326

Criminal/Victim's Assistance Fax: 623-773-7323

E-Mail: [cityattorney@peoriaaz.gov](mailto:cityattorney@peoriaaz.gov)

September 30, 2011

Chief, Voting Section,  
Civil Rights Division  
U.S. Department of Justice  
Room 7254-NWB, 950 Pennsylvania Avenue, NW  
Washington DC 20530

Re: 51.27(i)(j)(k)

Dear Sir or Madam:

The date of adoption of the ordinance by City Council to modify the boundaries for this redistricting submission was September 6<sup>th</sup>, 2011. The ordinance was signed by the Mayor on September 11<sup>th</sup>, 2011.

The date on which the change is to take effect is October 12<sup>th</sup>, 2011, subject to pre-clearance by the Department.

Should the Department not pre-clear the modification, the proposed change to district boundaries will be returned to the Council for further action.

The ordinance becomes effective thirty days after the Mayor's signature pursuant to Article 7, Sections 3,7, and 9 of the Peoria City Charter.

Sincerely,

OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

A handwritten signature in black ink, appearing to read "Stephen Kemp".

Stephen Kemp  
City Attorney



## City of Peoria

### *Office of the City Attorney*

8401 W. Monroe Street, Peoria Arizona 85345

*Civil/Risk Phone: 623-773-7330 • Fax: 623-773-7043*

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*E-Mail: [cityattorney@peoriaaz.gov](mailto:cityattorney@peoriaaz.gov)*

September 30, 2011

Chief, Voting Section,  
Civil Rights Division  
U.S. Department of Justice  
Room 7254-NWB, 950 Pennsylvania Avenue, NW  
Washington DC 20530

Re: 51.27(m)(n)

Dear Sir or Madam:

**The changes to the City of Peoria City Council Districts were conducted in order to comply with redistricting requirements contained in the Peoria City Charter. Article II, Section 2C of the City Charter provides:**

**C. District Boundaries shall be modified to substantially equalize the population of each for the next Regular Election following the completion of the United States Decennial Census. Should Peoria participate in a Mid-decennial census conducted by the United States, the Council shall also modify District boundaries to substantially equalize the population of each for the next regular election following such Special Census.**

**In this process, the City has followed accepted redistricting criteria as established by the United States Supreme Court in Bush v. Vera 517 U.S. 952, 116 S.Ct. 1941.**

- 1. Create districts with substantially equal population. The maximum permitted deviation was five percent.**
- 2. Avoid dividing established communities of interest, such as Master Planned Communities or Traditional Neighborhoods having an established identity**
- 3. Minimize Retrogression in minority influence areas.**
- 4. Follow established physical and natural constraints**

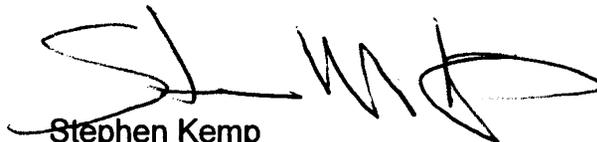
**Subsequently, in the process, the City Council added the criteria of maintaining all incumbents within their districts.**

Letter to U.S. Department of Justice  
September 30, 2011  
Page 2 of 2

**The City does not anticipate any negative change in the ability of the primary racial or language minority group (Latino) in electing candidates of their choice in the City's minority influence district.**

Sincerely,

**OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA**

A handwritten signature in black ink, appearing to read 'S. Kemp', written over the printed name.

Stephen Kemp  
City Attorney

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## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Civil/Risk Phone: 623-773-7330 • Fax: 623-773-7043

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E-Mail: [cityattorney@peoriaaz.gov](mailto:cityattorney@peoriaaz.gov)

September 30, 2011

Chief, Voting Section,  
Civil Rights Division  
U.S. Department of Justice  
Room 7254-NWB, 950 Pennsylvania Avenue, NW  
Washington DC 20530

Re: 51.27(o)

Dear Sir or Madam:

The purpose of this document is to identify the past or pending litigation concerning this redistricting submission or related voting practices. From the date of the last submission to the present, there is no litigation concerning redistricting. In 2008, the City received a complaint from some election workers alleging a violation of the Americans With Disabilities Act. No litigation was filed and the matter is resolved.

Sincerely,

OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

A handwritten signature in black ink, appearing to read "Stephen Kemp".

Stephen Kemp  
City Attorney

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## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

July 1, 2009

### VIA HAND DELIVERY

Gail Styles, OAA  
U. S. Equal Employment Opportunity Commission  
Phoenix District Office  
3300 North Central Avenue, Suite 690  
Phoenix, Arizona 85012

Re: Position Statement  
Charge No. 540-2009-01435  
[REDACTED] City of Peoria

Dear Ms. Styles:

This letter shall serve as the City of Peoria's ("City") position statement with respect to the above referenced Charge of Discrimination (the "Charge"). The Charge was filed with your office on or about May 18, 2009 by [REDACTED], an individual who applied for a Temporary Board (i.e., Election) Worker position with the City in the City Clerk's Office/Department.

At the outset, it should be noted that the City is an equal employment employer. In fact, City supervisors are subject to evaluation and even discipline based on their commitment and actions regarding equal employment opportunities.

In this particular instance, the City treated [REDACTED] fairly and consistently with other applicants, and in no way has the City discriminated against [REDACTED] on the basis of disability. [REDACTED]'s allegations in this Charge are without merit, and the City respectfully suggests that they should be declared unfounded.

#### 1. Description of the City

The City is an Arizona municipal corporation, created by Charter in 1954, that employs in excess of 1,500 employees who perform a wide range of local government services for the public. The City Clerk serves as Clerk to the City Council, keeps the corporate seal, attests official City signatures, files and

records City Council actions and documents. The City Clerk also serves as the Chief Elections Officer for the City and is responsible for conducting all municipal elections. The City Clerk's Office/Department consists of approximately nine (9) full-time job positions allocated among four (4) Divisions: Administration, Public Records and Information, Elections, and Passports. (See City Clerk's Office/Department Organizational Chart, attached as Attachment 1.) The Temporary Board Worker position that [REDACTED] applied for is one of three (3) Board Worker positions for the Primary Elections (August 6, 2008 – August 29, 2008) and one of two (2) Board Worker positions for the General Elections (October 6, 2008 – October 31, 2008).

2. Contact Information

The City's legal address is:

City of Peoria  
8401 W. Monroe Street  
Peoria, Arizona 85345

The contact information for the person responsible for responding to this Charge is:

Cheryl A. Boswell  
Assistant City Attorney  
City of Peoria  
8401 W. Monroe Street  
Peoria, Arizona 85345  
(623) 773-7330

3. City's Response to Factual Allegations Listed in Charge

Prior to filing his Charge, [REDACTED] contacted the City several times in writing.

1) The first written communication was on September 8, 2008 requesting the medical records from the City's pre-employment physical. (See [REDACTED] September 8, 2008 Letter, attached as Attachment 2.) The City responded to [REDACTED] on September 29, 2008 and provided him with a redacted copy of the medical records. (See Cheryl Boswell September 29, 2008 Letter, attached as Attachment 3.)

2) The second written communications were dated November 17, 2008 and were letters to four different individuals at the City (i.e., Mary Jo Kief, City Clerk; Debbie Meythaler, Human Resources Specialist; Nancy Fantasia, Benefits Administrator and me), informing the City that the medical records of his

physical were not complete and were incorrect. (See [REDACTED] Four (4) November 17, 2008 Letters, attached as Attachments 4, 5, 6 and 7.) The City responded to [REDACTED] on December 3, 2008 informing him that the City has to rely on the medical records in their current form unless informed differently by the medical professional. (See Cheryl Boswell December 3, 2008 Letter, attached as Attachment 8.)

In his Charge, [REDACTED] submitted a one paragraph Discrimination Statement containing particulars/factual allegations. The City first will respond to each sentence of the factual allegations separately in the order raised in the Charge. Then the City will briefly note other facts relevant to the Charge.

1) "On or about July 22, 2008, I [sic] and co-worker [REDACTED] completed the necessary paperwork/applications to initiate our employment with the Respondent." Agree. [REDACTED] application was dated July 22, 2008.

2) "We were provided employee packets, given entrance badges and introduced to other employees." Partially agree. The City acknowledges that the candidates (i.e., possible employees) were given badges and introduced to other candidates (possible employees), but they would not be eligible to be hired unless and until they successfully completed the pre-employment physical, drug and criminal background screening. It was communicated to the candidates that employment would be contingent upon the candidate's successful completion of a pre-employment physical, drug and criminal background screening, as is required of all City employees. Disagree. [REDACTED] and candidate [REDACTED] were not introduced to "other employees." The candidates were introduced to other candidates (possible employees). (See HR – Debbie Meythaler, July 18, 2008 E-Mail to Mary Jo Kief - Board Workers Job Offers Status, attached as Attachment 9.)

3) "[REDACTED] and I were both informed that we needed to have physicals." Agree. All City employees are required to have a pre-employment physical, drug and criminal background screening. I suspect that Board Workers in the past were not required to get a physical, etc. because in the past they were not City employees, but rather Maricopa County employees. This year Maricopa County who usually provides the workers, informed the City that due to budget cutbacks they would not be able to provide Board Worker employees and the City would have to hire their own Board Worker employees. Maricopa County did however provide the City with a list of names of possible employees. The City used that list (without vetting) and contacted the first names on the list as candidates for Board Worker employees.

4) "Upon the completion of the physicals we were both informed by Respondent that we did not pass and therefore we were no longer hired for the

positions on August 1, 2008." Partially agree. Upon completion of [REDACTED] physical, the Doctor's (i.e., [REDACTED]) recommendation based on an examination of [REDACTED] and information provided by [REDACTED] was that [REDACTED] would only be able to work with certain restrictions (i.e., [REDACTED] should be fine with sedentary work only). (See [REDACTED], attached as Attachment 10.) The restrictions that the Doctor placed on [REDACTED] would not allow a Board Worker to perform the essential (critical) duties/functions of the job for the position of Board Worker. (See Daily Requirements/Duties of a Board Worker for the City of Peoria's Early Voting Satellite Location, attached as Attachment 11.) The City relied on the medical Doctor's expert opinion with reference to the restrictions that were placed on [REDACTED]'s ability to work and in doing so was being a responsible conscientious employer.

The essential functions for the position of a Board Worker cannot be completed from a sedentary position. Board Workers need to be able to lookup (read and search for) every voter on the computerized Registration Records and fill out control slips for every voter which requires constant movement (looking up and down and back and forth) from looking at the monitor, to looking down at the keyboard and the control slips and up at the voter. While looking up every voter on the computerized Registration Records and filling out control slips for every voter is done while sitting down at a desk or table it still requires constant movement. Board Workers also must print a ballot for every voter and bend over and reload the printer with ballot paper. The printer that prints the ballots is approximately forty-four (44) inches by twenty-four (24) inches in size and is located approximately twelve (12) or more feet away from the desk or table where the computer monitor is located. (See Attachment 11.) Board Workers also must carry, setup and take down Monday through Friday approximately eight (8) sandwich board signs (weighing fifteen (15) pounds and standing four (4) feet high and three (3) feet wide) around the City Hall Campus at various locations. (See City of Peoria Municipal Campus Map, attached as Attachment 12.) Carrying, setting up and taking down the sandwich board signs require an individual to bend over at the waist. [REDACTED]'s Doctor's recommendation stated that based on an examination of [REDACTED] and information provided by [REDACTED] he would only be able to work with the restrictions of sedentary work. Movement is needed to perform the essential functions of the job requirements of a Board Worker.

Disagree, that [REDACTED] was told that he was no longer hired for the position because [REDACTED] would not (or could not) be hired prior to a pre-employment physical, drug and criminal background screening. Emphasis added. It was explained to the candidates that employment would be contingent on each applicant successfully completing the pre-employment physical, drug and criminal background screening as is required for all City of Peoria employees.

Therefore, [REDACTED] was never told that he was no longer hired for the position, but rather he was told that he would not be hired since his medical examination stated that he would only be able to work with certain restrictions which were incompatible with the essential functions of the Board Worker position. Emphasis added.

5) "I believe I was discriminated against because of my disability, in violation of the Americans with Disabilities Act of 1990." Disagree. The City was unaware of [REDACTED] having a disability. [REDACTED] did not indicate that he had a disability on his City of Peoria Applicant Profile. (See City of Peoria Employment Applicant Profile, attached as Attachment 13.) In fact, in [REDACTED]'s various communications to several City staff members he states that "the doctor is inaccurate to assume I am not capable of hard physical work." (See [REDACTED] November 17, 2008 Letter, attached as Attachment 14.) By his own account (in his various letters) [REDACTED] did (or does) not believe that he has a disability and stated that he did not have a disability and that such was inaccurate or in error, but in his Charge he states that "I believe I was discriminated against because of my disability, in violation of the Americans with Disabilities Act of 1990." One cannot state that they do not have a disability (i.e., "the doctor is inaccurate to assume I am not capable of hard physical work") then assert when they are not hired, claim a disability - which they had earlier said they did not have.

Other factual information relevant to the Charge includes, by category:

**Background of the Position:** Board Worker employees that worked at the City's Early Voting Satellite location in the past were Maricopa County employees. But this year, Maricopa County who usually provided the workers, informed the City that due to budget cutbacks they would not be able to provide Board Worker employees and the City would have to hire their own Board Worker employees. The City's Board Worker positions require that Board Workers perform certain physical job specific tasks. (See Attachment 11.) Board Workers receive supervision from the City Clerk who serves as the City's Chief Elections Officer and is responsible for conducting all municipal elections and overseeing the City's Primary and General Election satellite location in Peoria at the City.

**Background of the Recruitment:** When the City became aware that it would have to hire Board Worker employees this year, the City simply used a list of candidates that was provided by Maricopa County (without vetting) and contacted the first names on the list as candidates for Board Worker employees.

**Screening Process:** There was not a formal screening or vetting process other than the City's pre-employment physical, drug and criminal background

screening. The City simply contacted the names on the list (provided by Maricopa County). The City needed three (3) Board Workers for the Primary Elections and two (2) Board Workers for the General Elections and selected the names from the list provided by Maricopa County. There was not a City recruitment for the Board Worker positions.

**Interview Process:** There also were not any formal interviews or an interview process. The City simply contacted the names on the list (provided by Maricopa County) and if the individuals were interested they came in and filled out a City job application and were informed of the City's hiring process (i.e., the pre-employment physical, drug and criminal background screening).

**Evaluation of the Candidates/Applicants:** There was not an evaluation process of the candidates. If the candidates successfully completed the pre-employment physical (without restrictions which were critical to performing the essential duties/functions of the job of Board Worker), drug and criminal background screening they were hired. (See Board Workers Banner Occupational Health Services Work Status Reports, attached as Attachment 15.)

#### 4. City's Response to Discrimination Statement

██████████ was not hired as a Board Worker because the City was informed by the Doctor who performed a physical on ██████████ and whose recommendation was that ██████████ would only be able to work as a Board Worker with certain restrictions (i.e., ██████████ should be fine with sedentary work only). The Doctor's restrictions prohibited ██████████ from successfully performing essential functions/duties of a Board Worker. However, the restrictions do not appear to render him disable or to qualify as a disability under the Americans with Disabilities Act of 1990 ("ADA"). Simply having a physical impairment (or having had multiple surgeries including double coronary artery bypass and receiving a Doctor's recommendation of sedentary work only) is not enough to trigger the ADA. To have a disability under the ADA, a person must:

- have a physical or mental impairment that substantially limits one or more major life activities
- have a record of being substantially limited, or
- be regarded as being substantially limited.

The Supreme Court established that to qualify under the ADA's definition of disability a claimant (██████████) must prove that he has a physical or mental impairment and that the impairment substantially limits a major life activity. *Mink v. Wal-Mart Stores, Inc.*, 185 F.Supp.2d 659 (2002) (citing *Toyota Motor Manufacturing v. Williams*, 534 U.S. 184, 122 S.Ct. 681 (2002) (citing 42 U.S.C. § 12102(2)(A)). "Major life activities" refer to those activities that are of central

importance to daily life. *Id.* at 663, (citing *Toyota* at 690-91). Major life activities include functions such as "caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working." *Id.* (citing *Sutton v. United Airlines, Inc.*, 527 U.S. 471, 480, 119 S.Ct. 2139, 21, (citing CFR §1630.2(i))). "When the major life activity under consideration is that of working, the statutory phrase 'substantially limits' requires ... that the claimant allege that they are unable to work in a broad class of jobs, rather than a specific job." *Id.* (citing *Sutton* at 491). When addressing the major life activity of performing manual tasks, the central inquiry must be whether the claimant (██████████) is unable to perform the variety of tasks central to most people's daily lives, not whether the claimant is unable to perform the tasks associated with the specific job (i.e., of a Board Worker). *Id.* (citing *Toyota* at 692-93).

The facts in this Charge do not offer even a scintilla of evidence that ██████████ is unable to perform the variety of tasks central to most people's daily lives. Simply having a physical restriction placed on your ability to work as a Board Worker is not enough to trigger the ADA. To trigger the ADA a physical or mental impairment must exist that substantially limits one or more major life activities, which ██████████ fails to meet or prove. By his own account (in his various letters) ██████████ did not believe he had a disability and stated that he did not have a disability but that such restrictions placed on his ability to work were inaccurate.

██████████ fails in all aspects of the judicial burden-shifting framework:

1. ██████████ establishes no "prima facie case" of disability discrimination. To establish a prima facie case of disability discrimination requires proof that: (1) he was disabled within the meaning of the ADA, (2) he was qualified for the position, with or without an accommodation, (3) he suffered an adverse employment decision because of his disability, and (4) he was replaced by a non-disabled person. Americans with Disabilities Act of 1990, § *et seq.*, 42 U.S.C. § 12101 *et seq.* ██████████ fails to prove one of the four prongs of a prima facie case of disability discrimination.

2. However, even if a "prima facie case" did exist, the City has met its burden of producing evidence that the successful candidates chosen to be Board Workers were chosen (preferred) for legitimate, non-discriminatory reasons (i.e., there being no restrictions placed on their performing the essential functions of Board Workers). The fact that the City simply hired candidates who successfully completed (without restrictions of essential job function requirements) the pre-employment physical, drug and criminal background screening confirms that the City using the names from the list of candidates that was provided by Maricopa County was legitimate and unbiased.

3. [REDACTED] then also fails to meet his second burden – to show that the City's offered reasons for not selecting him as a Board Worker were a pretext for discrimination and that the reasons for hiring the successful candidates is also a pretext for discrimination. [REDACTED] provides no facts that show a discriminatory motive by anyone at the City and produces no facts that show the City's explanation for not hiring [REDACTED] and its hiring decisions are not credible.

The City has a strong commitment to a policy that does not support discrimination of any form in the workplace. In this instance we have been provided with no evidence that the City or any of its employees has violated this policy in any manner. The City concluded that the hiring process had been fair and that no discrimination had taken place. The City believes that after you review the Charge, you will conclude that [REDACTED]'s discrimination claim has no merit and will dismiss his Charge of discrimination accordingly.

I declare under penalty of perjury that the foregoing is true and correct. If you need additional information to complete your investigation or have any further questions, please do not hesitate to contact me.

Sincerely,

OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

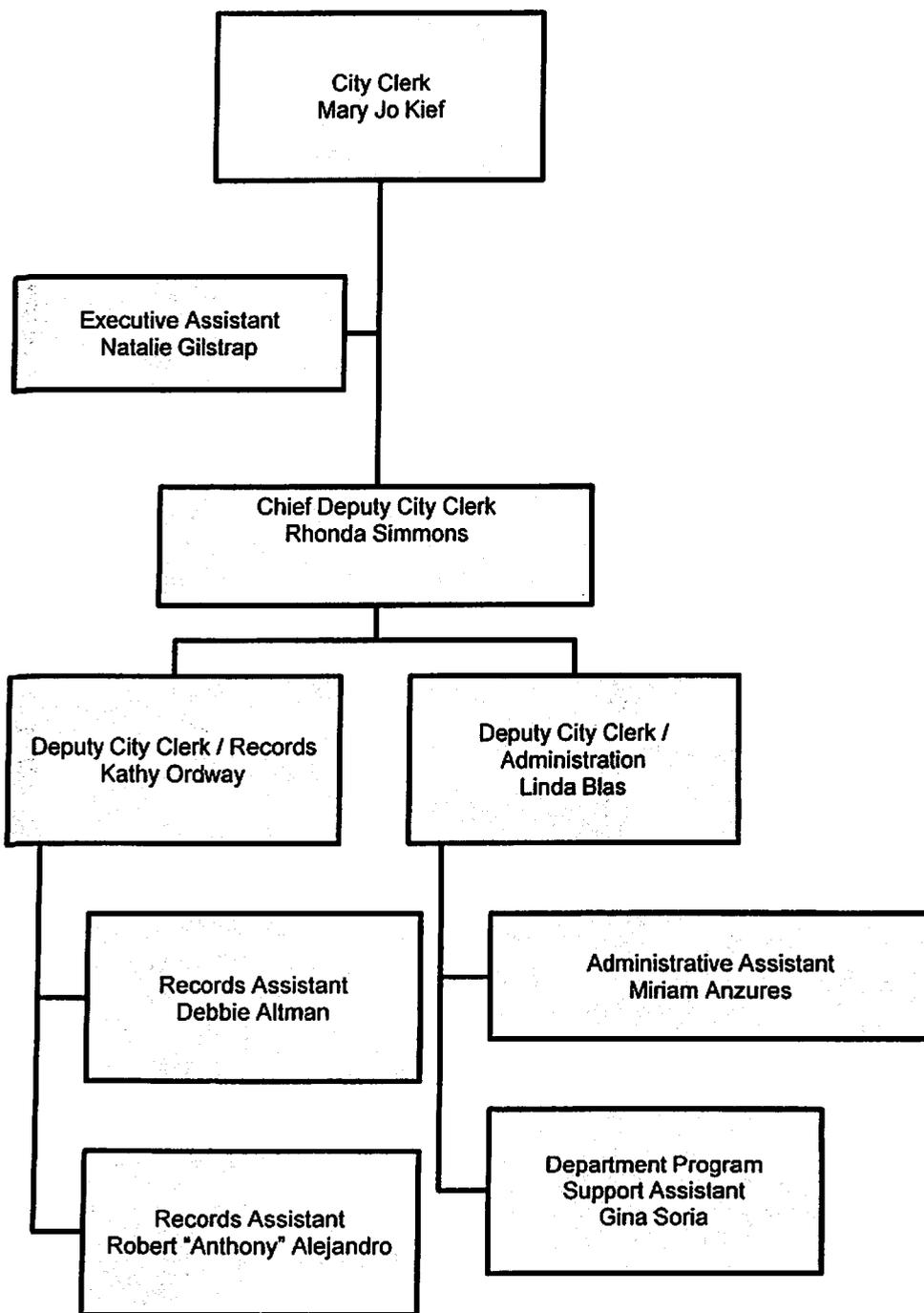


Cheryl A. Boswell  
Assistant City Attorney

cc: - Wynette Reed, Human Resources Director (w/o Attachments)  
- Mary Jo Kief, City Clerk (w/o Attachments)

**EXHIBIT 1**

Office of the City Clerk  
Organization Chart  
October 2008



**EXHIBIT 2**

RECEIVED  
SEP - 9 2008  
CITY OF PEORIA, ARIZ

[REDACTED]

September 8, 2008

[REDACTED]

CC: Debbie Meyphaler  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

Ms. Nancy Fantasia  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

## REQUEST FOR PERSONAL MEDICAL RECORDS

On July 23, I visited the [REDACTED] to receive a physical which the City of Peoria required as part of my application for (Election) Board Worker.

I signed a Release at the [REDACTED] allowing the results of the Physical to be given to the City of Peoria. At that time, I also requested a copy of those medical records be sent to me.

On August 12, I again visited the [REDACTED] and requested a copy of my medical records.

At that time, I also requested an opportunity to correct a failure to communicate with the Doctor administering the physical, which resulted in a demonstrated incorrect report.

To date, I have not received a copy of these records to which I believe I have a legal right. Please let me know if there is a charge to cover photocopying and mailing.

If you believe I am not legally entitled to these records, please inform me of the exact statute or federal law upon which you rely. Otherwise, please forward a copy of my medical records to the address above or call and I will pick them up and pay any copying charges involved.

Thank you.

[REDACTED]

[REDACTED] Applicant  
Early Voting Board Worker for the City of Peoria

**EXHIBIT 3**



## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

September 29, 2008

VIA U. S. MAIL



Re: Release of City Acquired Medical Records

Dear [REDACTED]:

The City of Peoria ("City") is in receipt of your request for a copy of your medical records from a physical that was requested and paid for by the City. The City takes the position that all such medical records are confidential and are the property of the City's.

While the City understands and acknowledges the public's right to inspect public records, such right is not without qualification. ARIZ. OP. Att'y. GEN. No. 75-721 (1976). Information contained in records may be treated as confidential. *Id.* It has been the City's position that release of information in medical records is confidential and of a nature that it would be against the best interests of the City to permit disclosure of medical records.

However, since the law supports the position that even if portions of a document merit confidentiality, a practical alternative to the complete denial of access would be deleting specific information. *Phoenix Newspapers, Inc. v. Ellis*, 215 Ariz. 268 (App. Div. 2007). The City is taking such approach and providing you with a redacted version of the record.

Sincerely,  
OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

A handwritten signature in black ink, appearing to read "Cheryl A. Boswell".

Cheryl A. Boswell  
Assistant City Attorney

cc: - Nancy Fantasia, Human Resources Analyst

CAB:dag

i:\users\lhum.res\medical-records-release.docx  
September 26, 2008 s/c dag

**EXHIBIT 4**

[REDACTED]  
[REDACTED]  
November 17, 2008

Ms. Mary Jo Kief, City Clerk  
City of Peoria  
8401 W. Monroe  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker." Maricopa County Elections Department highly recommended us to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED], we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished close to 6:30 pm.

Despite a failure to communicate, the physician who saw me cleared me for sedentary work.

We attended an Early Voting class on July 24 from 9 am to 4 pm held at the County Election Center, where we demonstrated we were fully qualified for the job as Early Election workers. To the best of my knowledge, we were never paid for this training.

Circa August 1, Debbie Meyphaler called to tell me I did not pass my physical and was not hired. Please forward this decision to me in writing and explain in detail why I was not hired.

Explain why Peoria would not hire me for a sedentary position after their doctor gave me clearance. Please give me the name of the person who made the decision and tell me why the person hired in my place was my age or older and in worse physical condition than I, since she had just had back surgery. Please be specific.

Please forward to me the written Job Description for the job of Election Board Worker for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I do other than the sedentary duties for which I was cleared.

Please note, when the doctor reported any inability to do more than sedentary work, it was his assumption based upon [REDACTED]. His diagnosis was not based upon any actual physical tests of my strength or agility. He never even asked me about my present condition or if I ever had a heart attack. I never have had a heart attack. Did he assume I had?

The doctor is inaccurate to assume I am not capable of hard physical work. After [REDACTED] my doctor advised I do a monitored exercise program, including the treadmill, for several months as part of my recovery routine. [REDACTED] for any activity six months after my operation when he stated my full strength was back to that of [REDACTED].

Since then, I have done manual labor which required heavy lifting of well over the 10 lb sedentary limit. I painted two large sheds in April 2007 and installed a cooler on the roof of my house in May 2008. I have moved concrete blocks and shoveled sand. I have pictures to verify these activities.

Recently, I worked several weeks for the Maricopa County Election Department as a Board Worker Trainer. This involved unloading a truck and setting up election equipment for the students to learn including 15 Edge Handicap Voting machines weighing over 38 lbs each. In one picture, I am pushing a rack of 5 Edge Machines up the Handicap Ramp at the Peoria City Council Chambers where several of these classes were conducted.

I just completed 15 days working long hours for the County Elections Department during the Presidential Election as a Trouble Shooter, a Hand Count Auditor at the County Sheriff Facility, and helping process ballots 12 hours a day at the Maricopa County Election Center.

I regularly do physical work, lift heavy objects weighing 40 or 50 lbs, and can do pushups. There was an obvious lack of communication during my exam. I asked to see the doctor for five minutes to correct the record by demonstrating the errors to the doctor so he could correct his assumptions.

The medical clinic office manager seemed more concerned with who would pay for the five minutes than if my records are correct. It is important to me my records are correct and do not contain false information or false conclusions. It was the doctor's error to not get facts and he should correct it. I was not notified the errors were corrected nor been given another appointment to do so. I would appreciate it if you can arrange that this be done. Having a medical record like this on file could be damaging to me.

If the City of Peoria has a policy to not hire workers over a certain age, or for some other reason, for sedentary work, regardless if they are qualified to do the job or cleared by their doctor, please inform me in writing and supply me with a detailed copy of the policy, who approved it, and when.

Please tell me who made the final decision to not hire me and what they noted on my application and in my file as the reason for their decision.

Please supply me with an unredacted photocopy of my application and any notations made about me in my file that is part of my permanent record. I have a right to know what was written about me.

I also have a legal right to a complete copy of any physical examination done of me regardless of who paid for it since it was my body I gave permission to examine and I who signed a release to allow the City of Peoria to receive a copy of it. If there is a law that allows you to refuse to give me a complete copy of my own physical, please provide me with a copy of that statute.

Please supply me the name of the person who has refused to allow the doctor's office to send me a complete unredacted copy and please give me the specific reason or reasons they refused.

Thank you.

[REDACTED], Applicant, 2008 Early Voting Board Worker

**EXHIBIT 5**

RECEIVED

NOV 20 2008

CITY OF PEORIA, AR

[REDACTED]  
[REDACTED]  
November 17, 2008

Debbie Meyphaler  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker." Maricopa County Elections Department highly recommended us to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED], we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished close to 6:30 pm.

Despite a failure to communicate, the physician who saw me cleared me for sedentary work.

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Please note, when the doctor reported any inability to do more than sedentary work, it was his assumption based upon [REDACTED]. His diagnosis was not based upon any actual physical tests of my strength or agility. He never even asked me about my present condition or if I ever had a heart attack. I never have had a heart attack. Did he assume I had?

The doctor is inaccurate to assume I am not capable of hard physical work. [REDACTED], my doctor advised I do a monitored exercise program, including the treadmill, for several months as part of my recovery routine. Even my [REDACTED] for any activity six months after my operation when he stated my full strength was back to that of [REDACTED].

Since then, I have done manual labor which required heavy lifting of well over the 10 lb sedentary limit. I painted two large sheds in April 2007 and installed a cooler on the roof of my house in May 2008. I have moved concrete blocks and shoveled sand. I have pictures to verify these activities.

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I regularly do physical work, lift heavy objects weighing 40 or 50 lbs, and can do pushups. There was an obvious lack of communication during my exam. I asked to see the doctor for five minutes to correct the record by demonstrating the errors to the doctor so he could correct his assumptions.

The medical clinic office manager seemed more concerned with who would pay for the five minutes than if my records are correct. It is important to me my records are correct and do not contain false information or false conclusions. It was the doctor's error to not get facts and he should correct it. I was not notified the errors were corrected nor been given another appointment to do so. I would appreciate it if you can arrange that this be done. Having a medical record like this on file could be damaging to me.

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Please supply me the name of the person who has refused to allow the doctor's office to send me a complete unredacted copy and please give me the specific reason or reasons they refused.

Thank you.

Applicant, 2008 Early Voting Board Worker

**EXHIBIT 6**

[REDACTED]  
[REDACTED]

November 17, 2008

Ms. Nancy Fantasia  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker." Maricopa County Elections Department highly recommended us to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED] we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished close to 6:30 pm.

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Explain why Peoria would not hire me for a sedentary position after their doctor gave me clearance. Please give me the name of the person who made the decision and tell me why the person hired in my place was my age or older and in worse physical condition than I, since she had just had back surgery. Please be specific.

Please forward to me the written Job Description for the job of Election Board Worker for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I do other than the sedentary duties for which I was cleared.

Please note, when the doctor reported any inability to do more than sedentary work, it was his assumption based upon [REDACTED] His diagnosis was not based upon any actual physical tests of my strength or agility. He never even asked me about my present condition or if I ever had a heart attack. I never have had a heart attack. Did he assume I had?

The doctor is inaccurate to assume I am not capable of hard physical work. [REDACTED] my doctor advised I do a monitored exercise program, including the treadmill, for several months as part of my recovery routine. [REDACTED] cleared me for any activity six months after my operation when he stated my full strength was back to that of before [REDACTED].

Since then, I have done manual labor which required heavy lifting of well over the 10 lb sedentary limit. I painted two large sheds in April 2007 and installed a cooler on the roof of my house in May 2008. I have moved concrete blocks and shoveled sand. I have pictures to verify these activities.



**EXHIBIT 7**

[REDACTED]

November 17, 2008

Cheryl A. Boswell  
Assistant City Attorney  
8401 W. Monroe  
Peoria, Arizona 85345

RE: Your Response re: Release of City Acquired Medical Records

I received the redacted copy of my medical records of my physical paid for by the City of Peoria.

Unfortunately, they are not complete and not sufficient. My medical records are not confidential from me. My doctor will request a complete copy in December. Please be sure she receives a complete unredacted copy.

I find it interesting you redacted the line where the doctor states I am cleared to do sedentary work and therefore cleared to work as an Early Elections Board Worker.

These medical records are incorrect and incomplete due to a failure to communicate. They leave out facts and contain errors which need to be corrected. I offered to meet with the doctor for five minutes to correct them.

I demonstrated to the medical clinic office manager I am in excellent condition and to her dismay did six pushups in her office. The surgeries I mentioned were corrective. The heart surgery was NOT the result of a heart attack. I never suffered a heart attack. The doctor failed to ask anything about my present physical condition.

[REDACTED] my doctor recommended I do a monitored exercise program, including treadmill, for several months as part of the recovery routine. Since then, I have done repair work and manual labor which required heavy lifting of well over the 10 lb sedentary work limit. I have pictures to verify these activities.

I recently worked several weeks for the Maricopa County Election Department as a Board Worker Trainer. This involved setting up election equipment for the students to learn including 15 Edge Handicap Voting machines weighing over 38 lbs each. In one picture, I am pushing a rack of 5 Edge Machines up the Handicap Ramp at the Peoria City Council Chambers where several of these classes were conducted.

I also just completed 15 days working long hours for the County Elections Department as a Trouble Shooter, a Hand Count Auditor at the County Sheriff Facility, and helping process ballots 12 hours a day at the Maricopa County Election Center.

The medical clinic office manager seemed more concerned with who would pay for the five minutes than if my records were correct. My offer still stands. It is important to me my records are correct and do not contain false information or false conclusions. I would appreciate it if you can arrange to get this is done.

[REDACTED]

[REDACTED], Applicant, 2008 Early Voting Board Worker

**EXHIBIT 8**



## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

December 3, 2008

VIA U. S. MAIL



Re: Incorrect and Incomplete Records

Dear [REDACTED]:

The City of Peoria ("City") is in receipt of your letters to Mary Jo Kief the City Clerk, Debbie Meythaler and Nancy Fantasia in Human Resources and me.

While it is your position that "the records as written are incorrect and not complete" the City has to rely on the records in their current state unless informed differently by the medical professional, which has not occurred. However, if you desire to have the records "corrected" (amended) you are free to schedule an appointment with the Doctor (at your expense) and provide him sufficient information (evidence) to support any change. Once that occurs, the Doctor will forward any change (amendment) to the City and the City will place such in your file.

Your desire to "correct" (amend) the records is somewhat of a moot issue since you worked for the Maricopa County Elections Department and the City's need for individuals to staff the Early Voting Satellite Location cease to exist, since the election season is over. Should you apply in the future to work another election season for the City, the City would require that you (or any individual) have another physical.

Having the medical records in their current state on file with the City should not be particularly damaging to you since the City generally does not release such information. While the City understands and acknowledges the public's right and your right to inspect public records, such right is not without qualification. ARIZ. OP. Att'y. GEN. No. 75-721 (1976). Information contained in records may be treated as confidential. *Id.* It has been the City's position that release of information in medical records is confidential and of a nature that it would be against the best interests of the City to permit disclosure of medical records. However, since the law supports the position that even if portions of a document merit confidentiality, a practical alternative to the complete denial of

access would be deleting specific information. *Phoenix Newspapers, Inc. v. Ellis*, 215 Ariz. 268 (App. Div. 2007). The City took such an approach and provided you a redacted version of the record. There is no one person who has refused to allow the Doctor's office to send you a copy of medical records which are confidential and are the property of the City, but rather it is the City's policy as mentioned in my previous communication.

The City is an equal employment employer. In fact, City supervisors are subject to evaluation and even discipline based on their commitment and actions regarding equal employment opportunities. So, the statement you made in your letters to Mary Jo Kief, Debbie Meythaler and Nancy Fantasia about the City having "a policy to not hire workers over a certain age, if handicapped..." is untrue and unfounded. The City has a strong commitment to a policy that does not support discrimination of any form.

The U.S. Supreme Court has observed that Senator Hubert Humphrey, while explaining the proponents' understanding of Title VII as it was being debated in the U.S. Senate, stated that the law does not limit the employer's freedom to hire, fire, promote or demote for any reasons--or no reasons--so long as his action is not based on race, age, etc. *United Steelworkers of America v. Weber*, 443 U.S. 193, 237 (1979). In fact, the City makes its hiring decisions based on the information provided to the City at the time and the best applicant for the job with reference to the particular job requirements, individual's experience, etc. The City does not provide the names of a specific individual who made a decision not to hire a person, such is irrelevant. The City made a hiring decision based on available information at the time.

Sincerely,  
OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA  
  
Cheryl A. Boswell  
Assistant City Attorney

cc: - Mary Jo Kief, City Clerk  
- Nancy Fantasia, Human Resources Analyst  
- Debbie Meythaler, Human Resources Specialist

CAB:dag

**EXHIBIT 9**

**From:** HR - Debbie Meythaler  
**Sent:** Friday, July 18, 2008 10:14 AM  
**To:** Mary Jo Kief; Gina Soria  
**Subject:** Board Workers Job offers status

Hello,

The following candidates have accepted the job offers for Board Workers. The following is some information for your records.

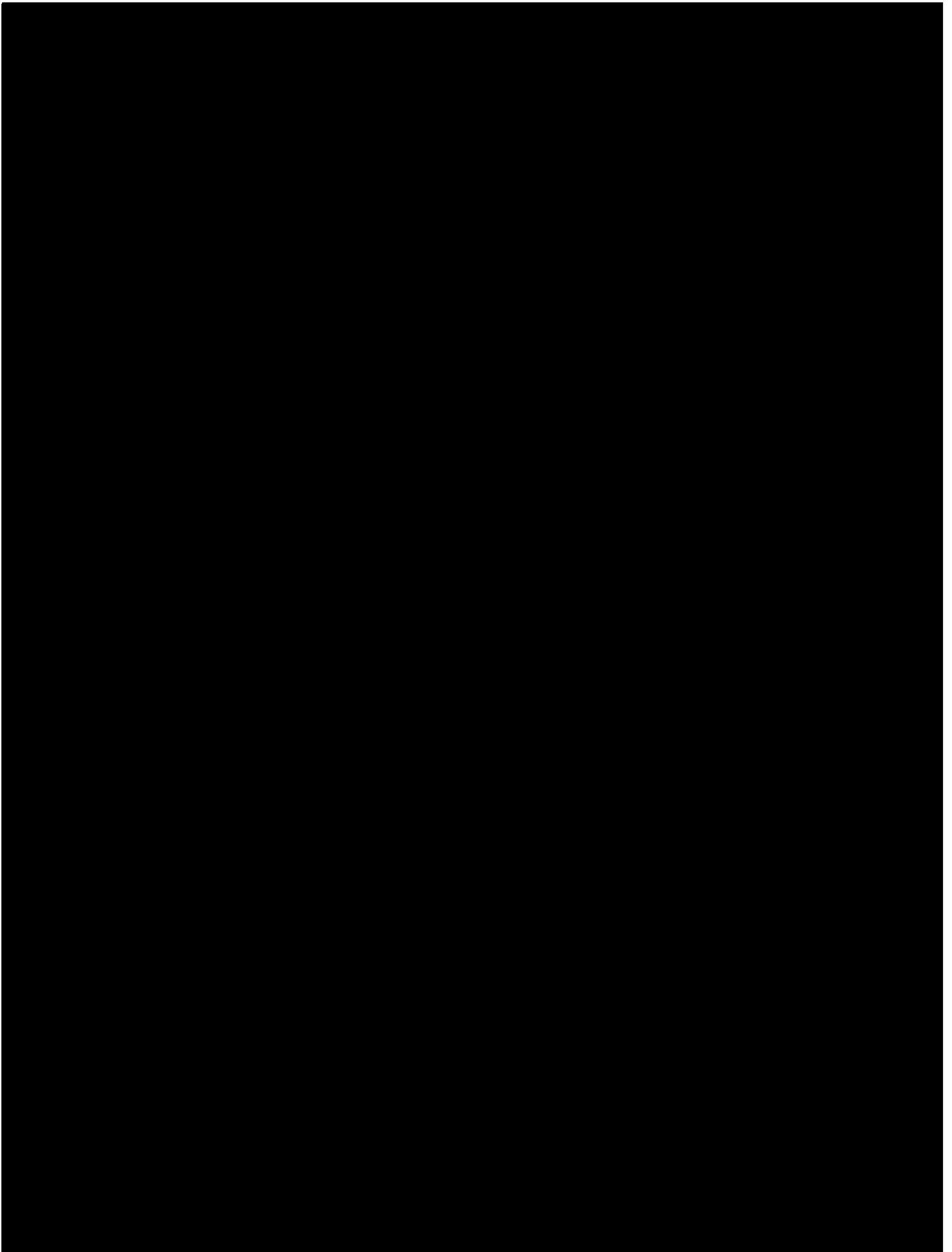
<b>NAMES:</b>	[REDACTED]
<b>POSITION:</b>	Board Worker
<b>RATE:</b>	\$10.00
<b>STARTING DATE:</b>	8/4/08

Starting date for all these candidates will depend on receiving the clearance for the pre-employment physical, drug and criminal background screenings. The candidates are scheduled to sign the new hire paperwork next week. FYI, [REDACTED] declined the job offer.

Please let me know if you have any questions or need additional information.

Make it a great day!  
Debbie Meythaler  
Human Resources Specialist  
City of Peoria

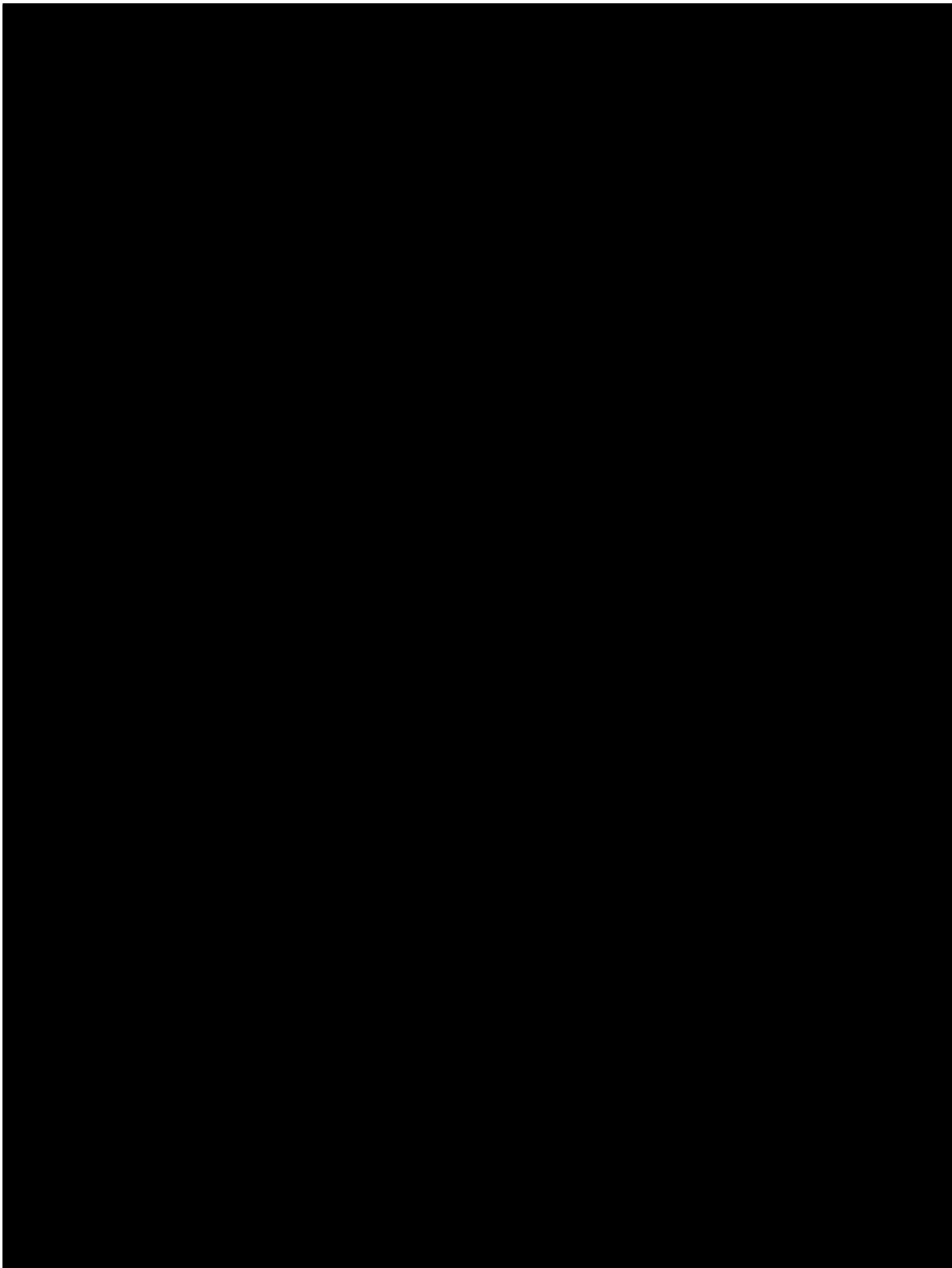
**EXHIBIT 10**

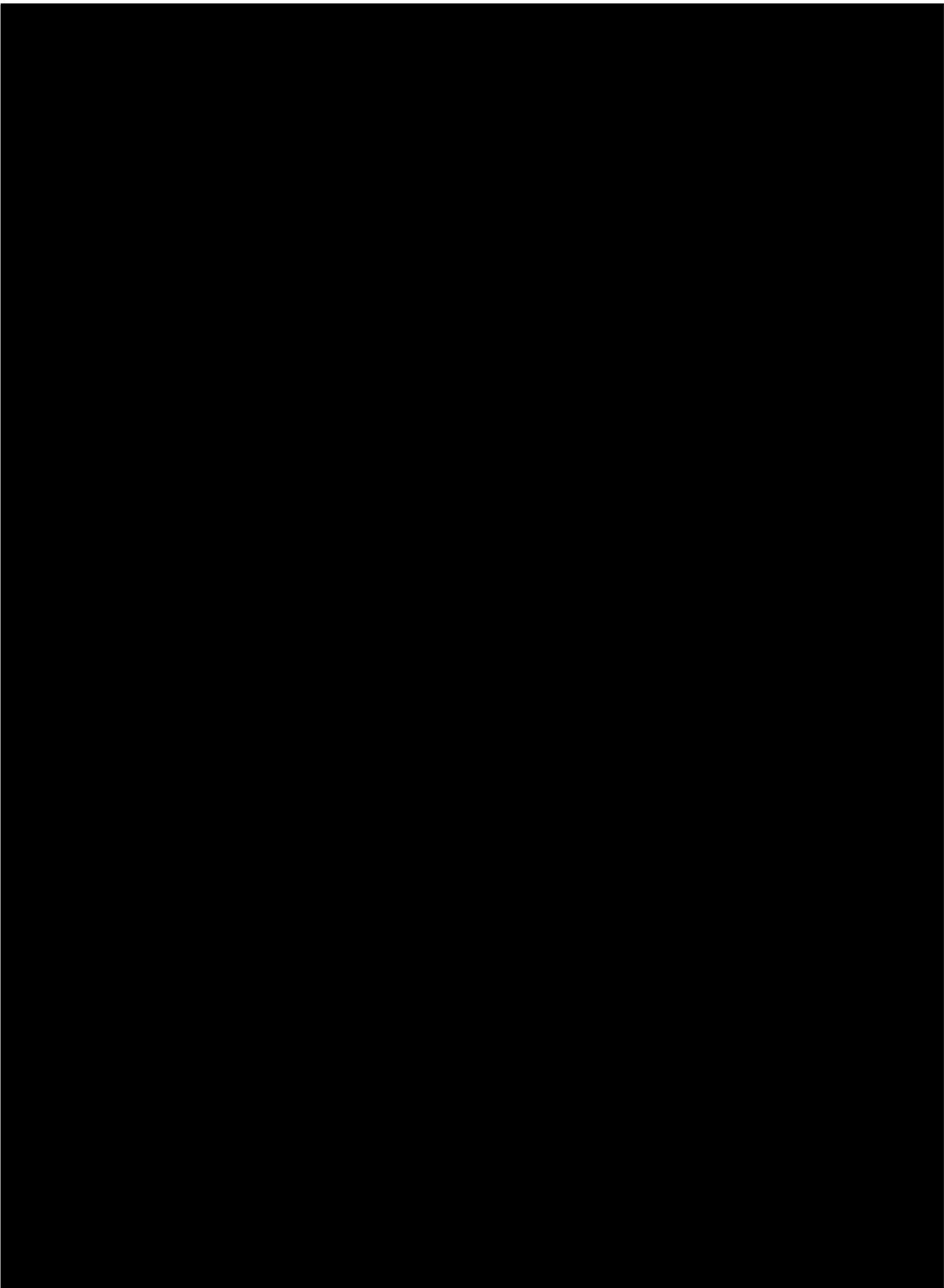


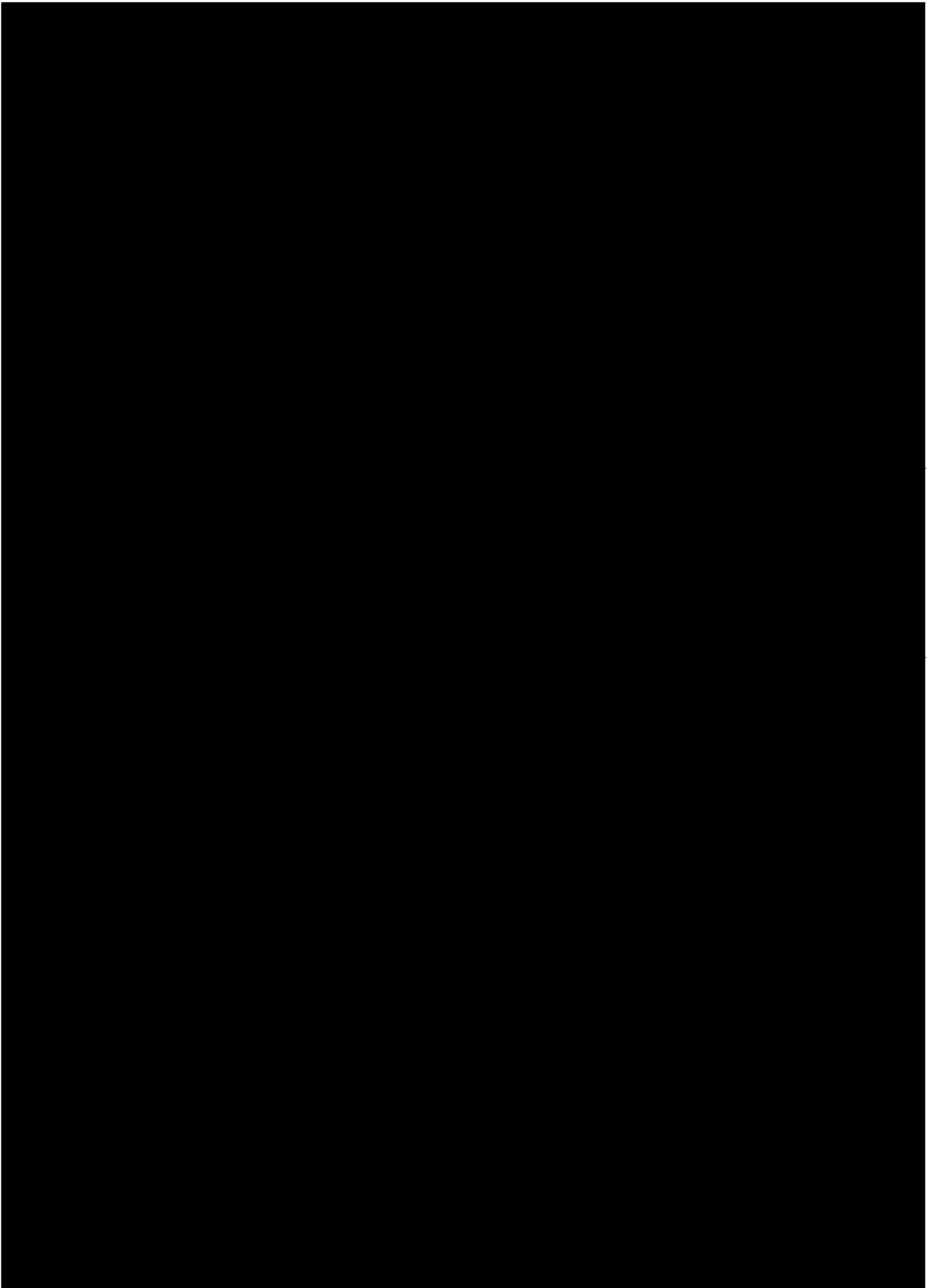
[REDACTED]

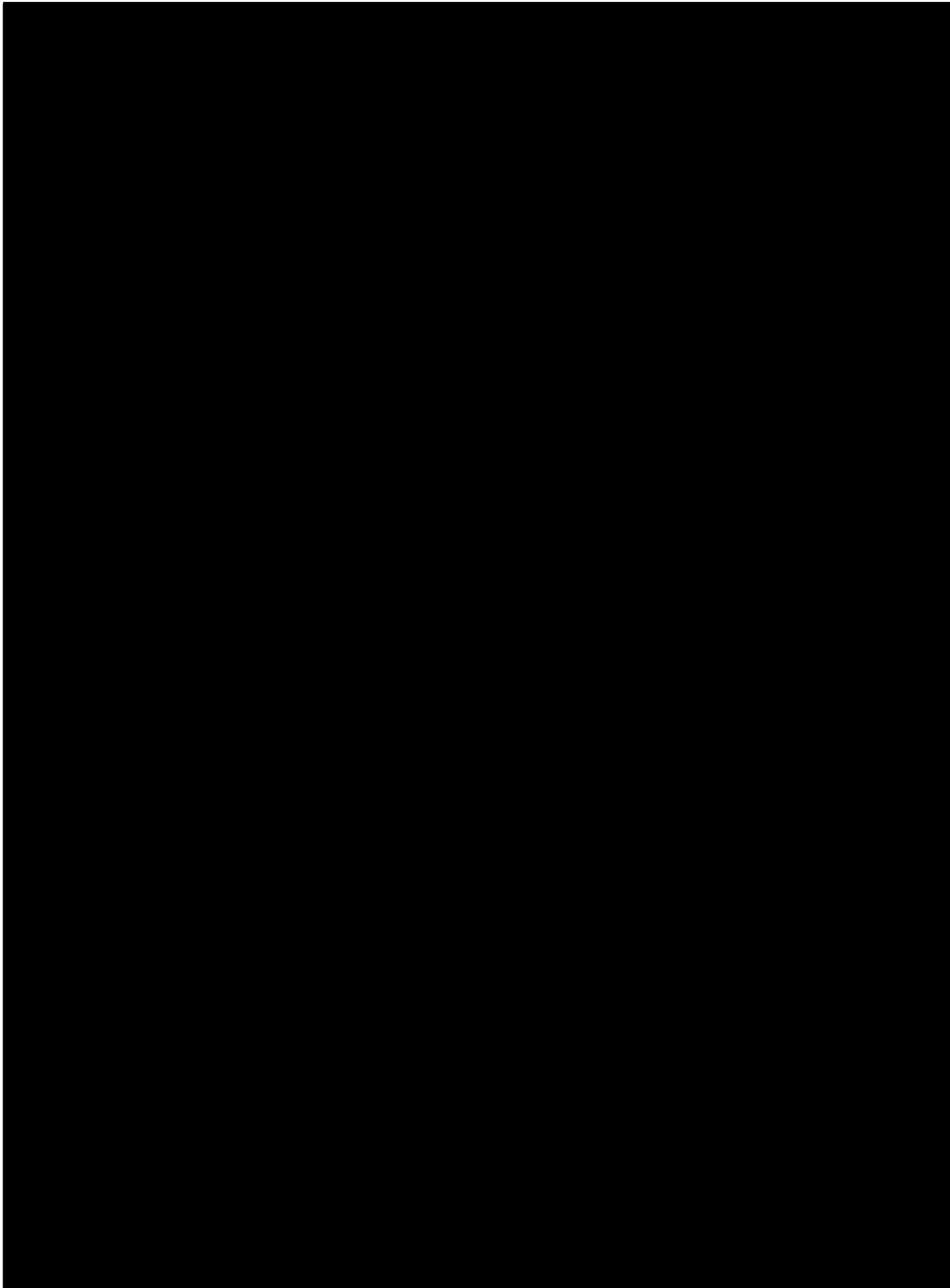
[REDACTED]

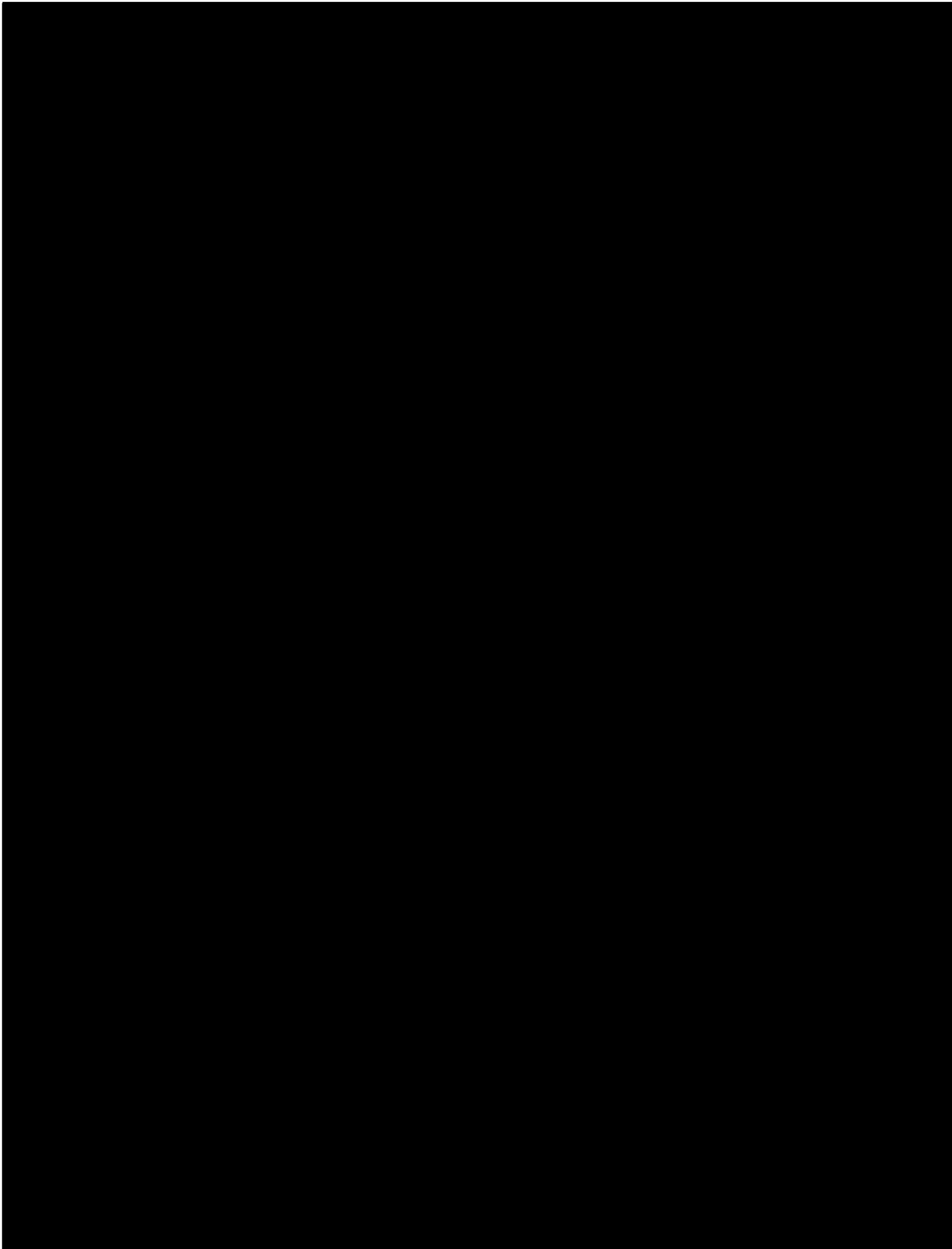
[REDACTED]

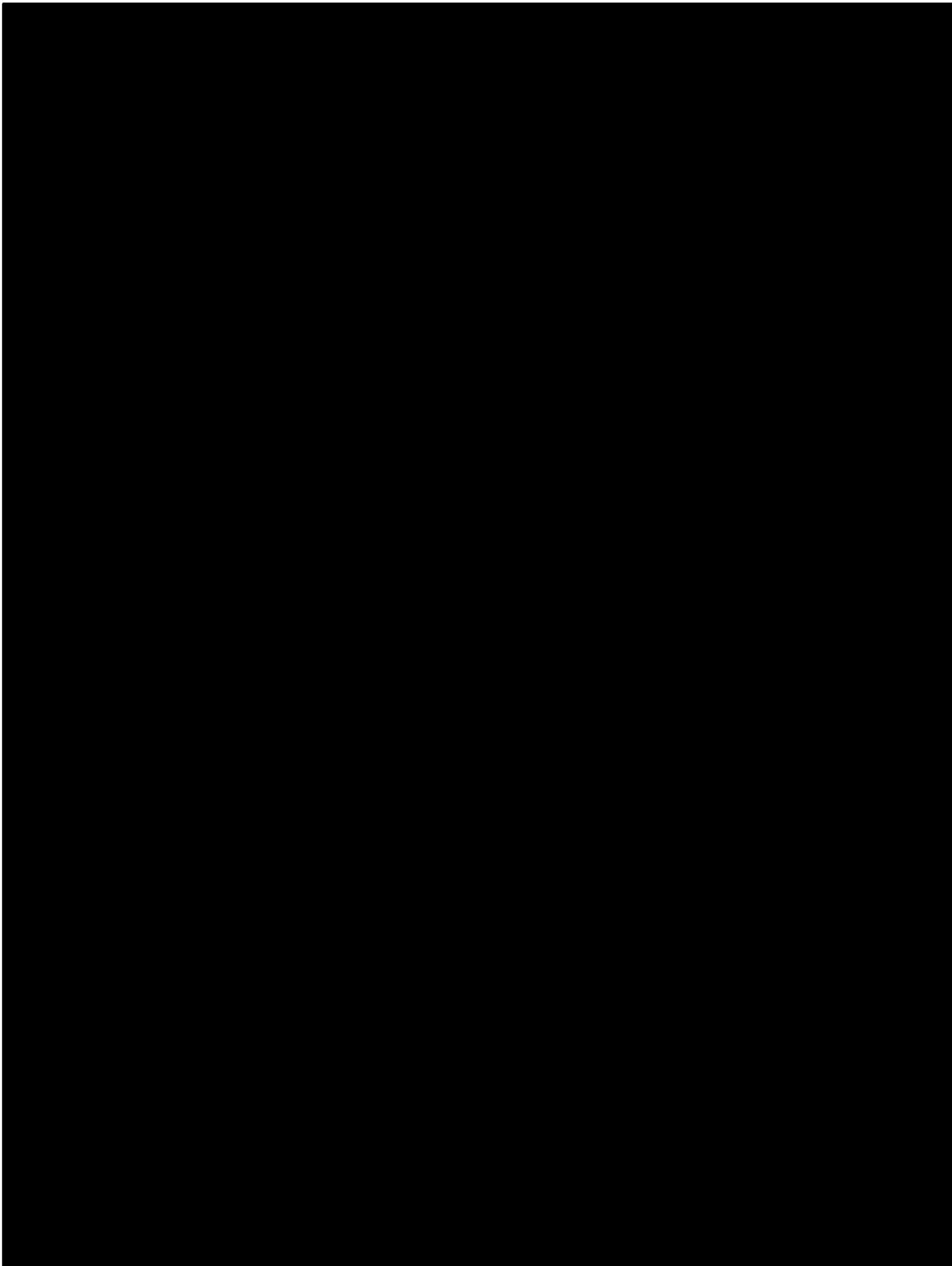


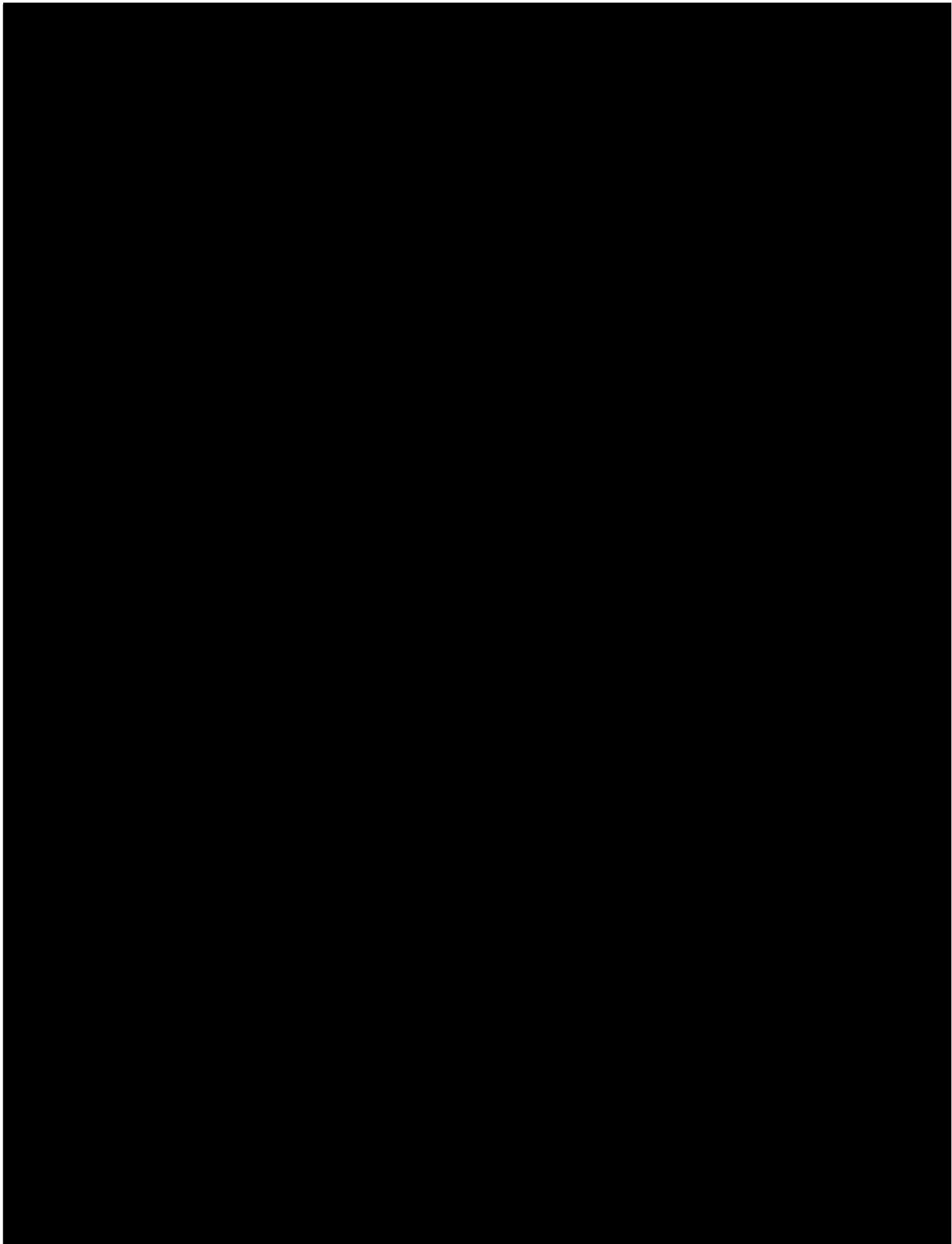


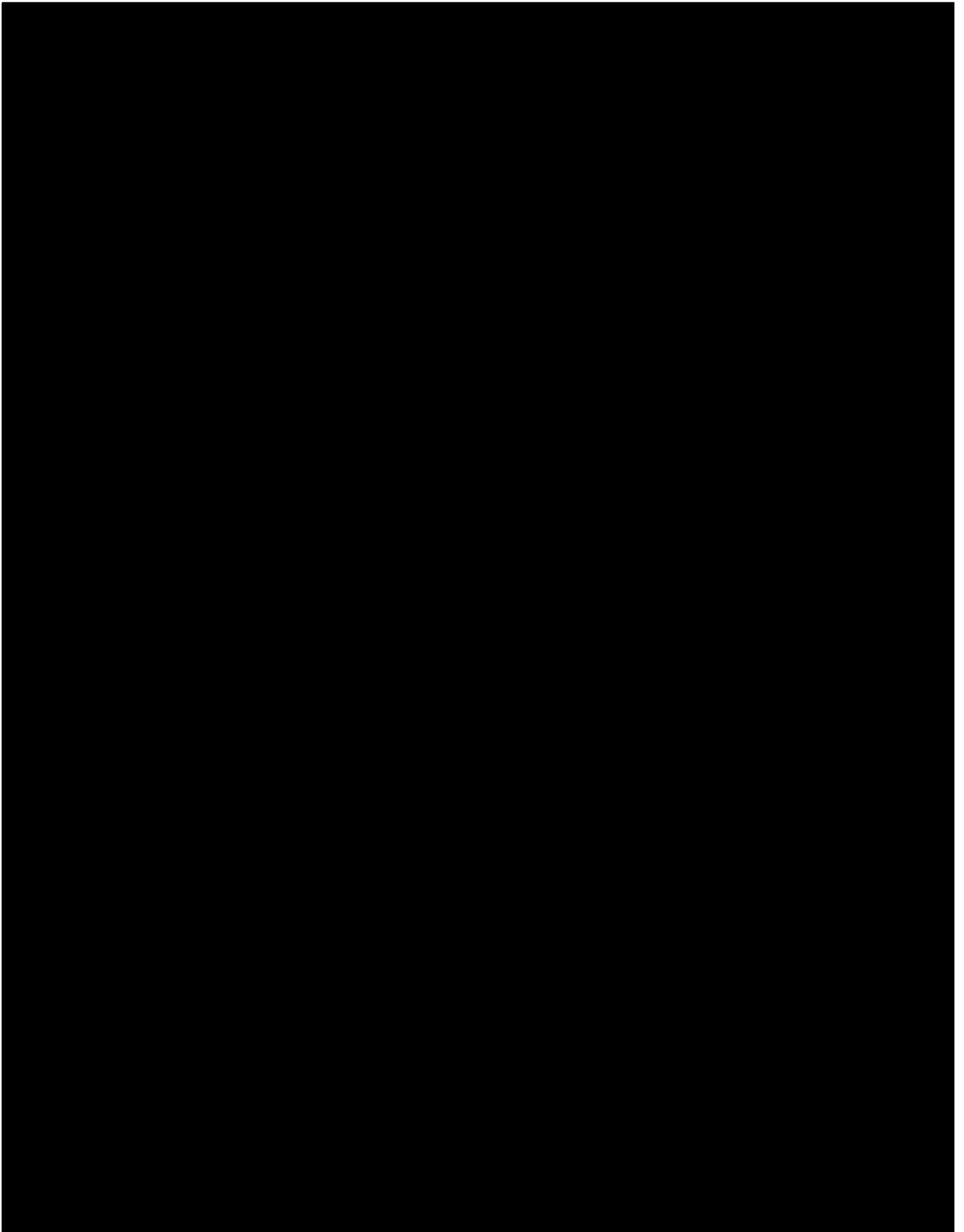


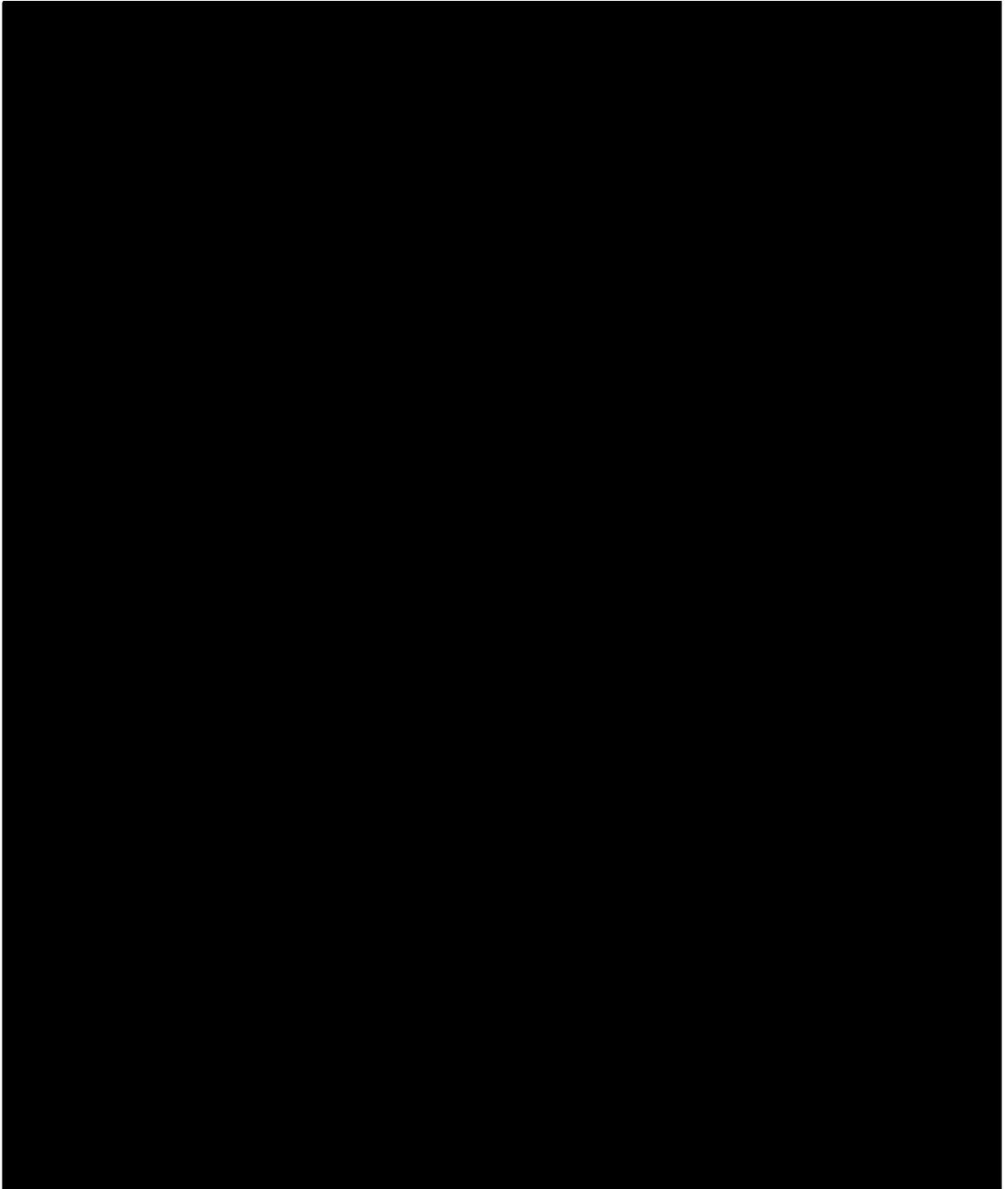












**EXHIBIT 11**

## **Daily Requirements/Duties of a Board Worker for the City of Peoria's Early Voting Satellite Location**

**Primary: August 6, 2008 – August 29, 2008**

**General: October 6, 2008 – October 31, 2008**

Please note the early voting site was open during summer months with temperatures ranging from 105-116 degrees for the primary and 95-107 degrees for the general. The temperatures directly impacted the execution of the tasks listed below.

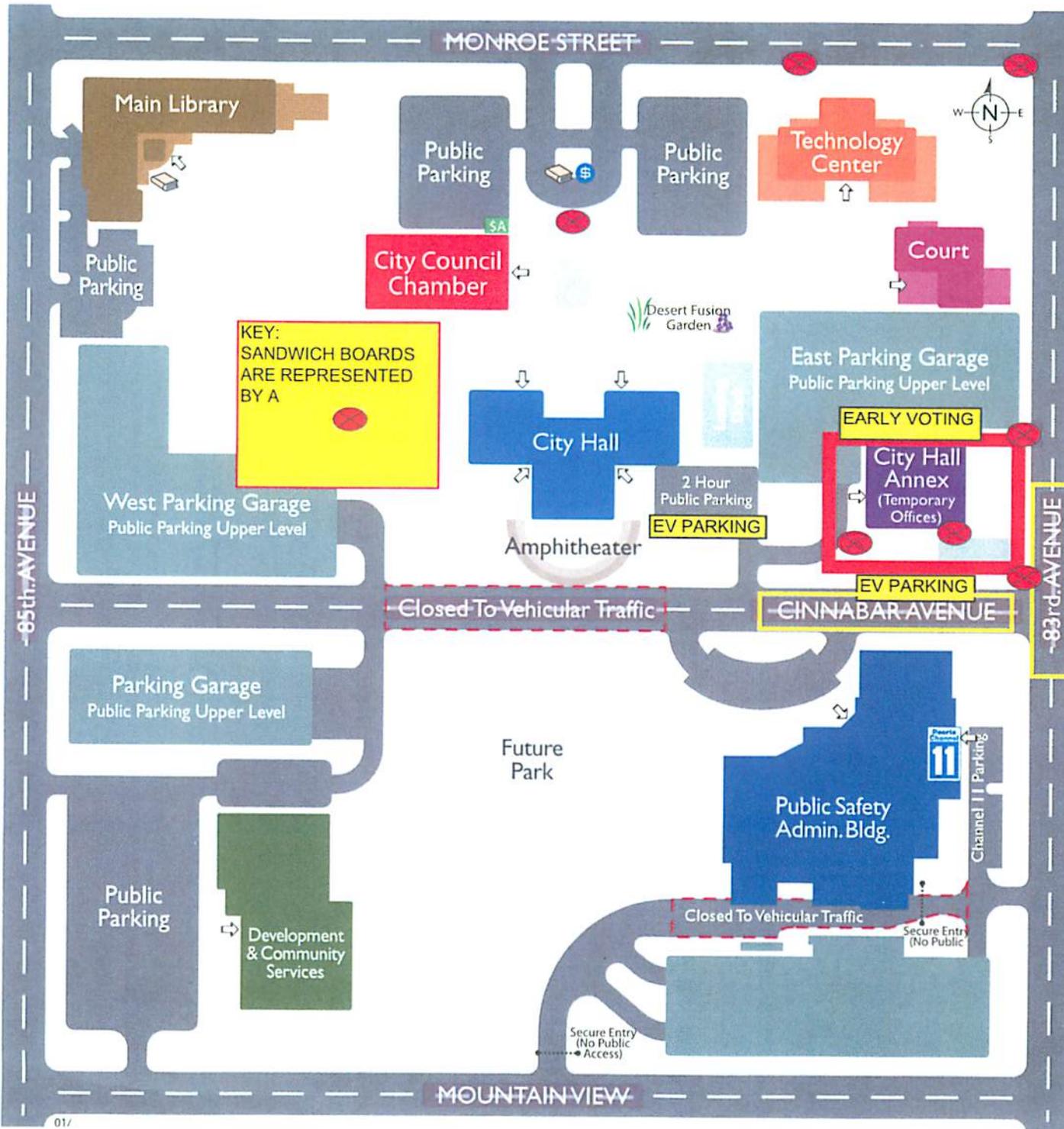
### **Setup and Take down:**

1. Carry/setup/position/take down approximately 8 sandwich boards (weighing approx. 15 lbs. each, standing 4 ft. high and 3 ft. wide) around City Hall Campus (see map).
  - This task involved heavy lifting of awkward-shaped sandwich boards and carrying said boards an approximate 1 mile radius around the campus. **Most strenuous task.**
2. Carry/setup/position/take down numerous signs in addition to the sandwich boards around City Hall.
  - This task involved extensive walking, bending and reaching.
3. Carry and handle several supply boxes weighing up to approx. 35 lbs.
4. Carry and handle up to five ballot boxes weighing up to approx. 50 lbs. and are approx. 2 ft. wide and 1 ½ ft. high.
  - This task involved carrying full ballot boxes approx. ¼ mile.

### **Miscellaneous:**

1. Extensive computer work/typing/writing/reading/speaking:
  - This task involved constantly alternating from a sitting position to a standing position to a bending position while assisting voters.
2. Printing tasks involved constant standing with repetitive bending motions while assisting voters.
3. Escorting voters to their cars/providing directions.
  - This task involved moderate walking.
4. Rearrange furniture to accommodate traffic flow. This task involved moderate lifting and bending.
5. Assisting voters waiting in lines up to ½ mile long.
  - This task involved constant walking and standing.
6. Take down all early voting equipment on the last day.
  - This task involved extensive bending, reaching and heavy lifting.
7. Work hours ranged from 7:30 a.m. to 10:30 p.m.

**EXHIBIT 12**



**City of Peoria Municipal Campus**  
 8401 W. Monroe St., Peoria AZ 85345  
 Information: (623) 773-7000  
 www.peoriaaz.gov

**City Council Chamber** 8401 W. Monroe St.

**City Hall** 8401 W. Monroe St.

**First Floor**

- Information Counter
- City Clerk (Passports)
- Customer Service (Utility Billing & Setup)
- Economic Development
- Human Resources
- Pine Conference Room

**Second Floor**

- Budget
- City Attorney

**Third Floor**

- Mayor
- City Council
- City Manager
- Communications & Public Affairs

**City Hall Annex** 8314 W. Cinnabar Ave.

- Purchasing
- Special Events

**Court** 10100 N. 83rd Ave.

**Development & Community Services** 9875 N. 85th Ave.

**First Floor**

- Community Services
- Parks and Recreation
- Community Development
- Building Safety & Permits
- Neighborhood Services (Code Compliance)
- Planning & Zoning
- Engineering

**Second Floor**

- Public Works
- Utilities

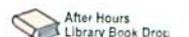
**Library** 8463 W. Monroe St.

**Public Safety Admin.** 8351 W. Cinnabar Ave.

- Police
- Fire Administration
- Peoria Channel 11
- Peoria Conference Room

**Technology Center** 8343 W. Monroe St.

- Information Technology



**EXHIBIT 13**

TO ALL APPLICANTS: The City of Peoria is an Affirmative Action/Equal Opportunity/ Reasonable Accommodation Employer. The information that you provide on this profile is used for statistical purposes in complying with record keeping requirements of the Federal Government to assure equal employment opportunity in the City's hiring practices. This profile will be filed separately from your application and will not be used to discriminate in any way in the employment process. Although completion of this profile is not mandatory, your assistance will help us to study and improve our recruitment policies. THANK YOU.

### CITY OF PEORIA APPLICANT PROFILE

TITLE OF POSITION APPLIED FOR: Board Worker

TODAY'S DATE: 07-22-08

LAST NAME: [REDACTED] FIRST NAME: [REDACTED] INITIAL: [REDACTED]

ADDRESS: [REDACTED] CITY/STATE: [REDACTED] ZIP: [REDACTED]

GENDER: 1.  FEMALE 2.  MALE

AGE: [REDACTED]

Ethnic Group	Where did you hear about this vacancy?
(Please check all that apply and circle the category you consider to be your primary race/ethnicity)	(Please check only ONE of the options)
1. <input checked="" type="checkbox"/> White	1. <input type="checkbox"/> Peoria Website
2. <input type="checkbox"/> Hispanic/Latino	2. <input type="checkbox"/> Peoria Job Hotline
3. <input type="checkbox"/> Black/African American	3. <input type="checkbox"/> City Employee
4. <input checked="" type="checkbox"/> American Indian/ Alaska Native	4. <input type="checkbox"/> Walk-In
5. <input type="checkbox"/> Native Hawaiian/ Other Pacific Islander	5. <input type="checkbox"/> Newspaper: _____
6. <input type="checkbox"/> Asian	6. <input type="checkbox"/> Job Fair: _____
7. <input type="checkbox"/> Prefer not to specify	7. <input type="checkbox"/> Professional Publication or Web-site: _____
	8. <input checked="" type="checkbox"/> Other: <u>MCED</u>

#### Preference Points:

Some applicants may qualify for employment preference points in accordance with Arizona Revised Statue 38-492. Please refer to 'Preference Points Information' on the back page of this application to determine whether you qualify. If you determine that you meet the requirements for any of the listed categories, please check the appropriate option(s) below.

Note: Appropriate supporting documentation is required within five working days from the closing date of the position you are applying for. Documentation may be submitted via fax at (623) 773-7149, U.S. Mail, or in person at the Human Resources Office, 8401 West Monroe Street, Peoria, AZ 85345. Please reference the Job Title and Job Posting number on your supporting documents.

Veteran  Disabled Veteran  Spouse or Surviving Spouse of a Veteran  Person with a Disability

**EXHIBIT 14**

[REDACTED]

November 17, 2008

Ms. Mary Jo Kief, City Clerk  
City of Peoria  
8401 W. Monroe  
Peoria, Arizona 85345

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Please forward to me the written Job Description for the job of Election Board Worker for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I do other than the sedentary duties for which I was cleared.

Please note, when the doctor reported any inability to do more than sedentary work, it was his assumption based upon elective and corrective surgeries I had, including a [REDACTED]. His diagnosis was not based upon any actual physical tests of my strength or agility. He never even asked me about my present condition or if I ever had a heart attack. I never have had a heart attack. Did he assume I had?

The doctor is inaccurate to assume I am not capable of hard physical work. After [REDACTED], my doctor advised I do a monitored exercise program, including the treadmill, for several months as part of my recovery routine. Even my [REDACTED] cleared me for any activity six months after my operation when he stated my full strength was back to that of [REDACTED]

Since then, I have done manual labor which required heavy lifting of well over the 10 lb sedentary limit. I painted two large sheds in April 2007 and installed a cooler on the roof of my house in May 2008. I have moved concrete blocks and shoveled sand. I have pictures to verify these activities.

Recently, I worked several weeks for the Maricopa County Election Department as a Board Worker Trainer. This involved unloading a truck and setting up election equipment for the students to learn including 15 Edge Handicap Voting machines weighing over 38 lbs each. In one picture, I am pushing a rack of 5 Edge Machines up the Handicap Ramp at the Peoria City Council Chambers where several of these classes were conducted.

I just completed 15 days working long hours for the County Elections Department during the Presidential Election as a Trouble Shooter, a Hand Count Auditor at the County Sheriff Facility, and helping process ballots 12 hours a day at the Maricopa County Election Center.

I regularly do physical work, lift heavy objects weighing 40 or 50 lbs, and can do pushups. There was an obvious lack of communication during my exam. I asked to see the doctor for five minutes to correct the record by demonstrating the errors to the doctor so he could correct his assumptions.

The medical clinic office manager seemed more concerned with who would pay for the five minutes than if my records are correct. It is important to me my records are correct and do not contain false information or false conclusions. It was the doctor's error to not get facts and he should correct it. I was not notified the errors were corrected nor been given another appointment to do so. I would appreciate it if you can arrange that this be done. Having a medical record like this on file could be damaging to me.

If the City of Peoria has a policy to not hire workers over a certain age, or for some other reason, for sedentary work, regardless if they are qualified to do the job or cleared by their doctor, please inform me in writing and supply me with a detailed copy of the policy, who approved it, and when.

Please tell me who made the final decision to not hire me and what they noted on my application and in my file as the reason for their decision.

Please supply me with an unredacted photocopy of my application and any notations made about me in my file that is part of my permanent record. I have a right to know what was written about me.

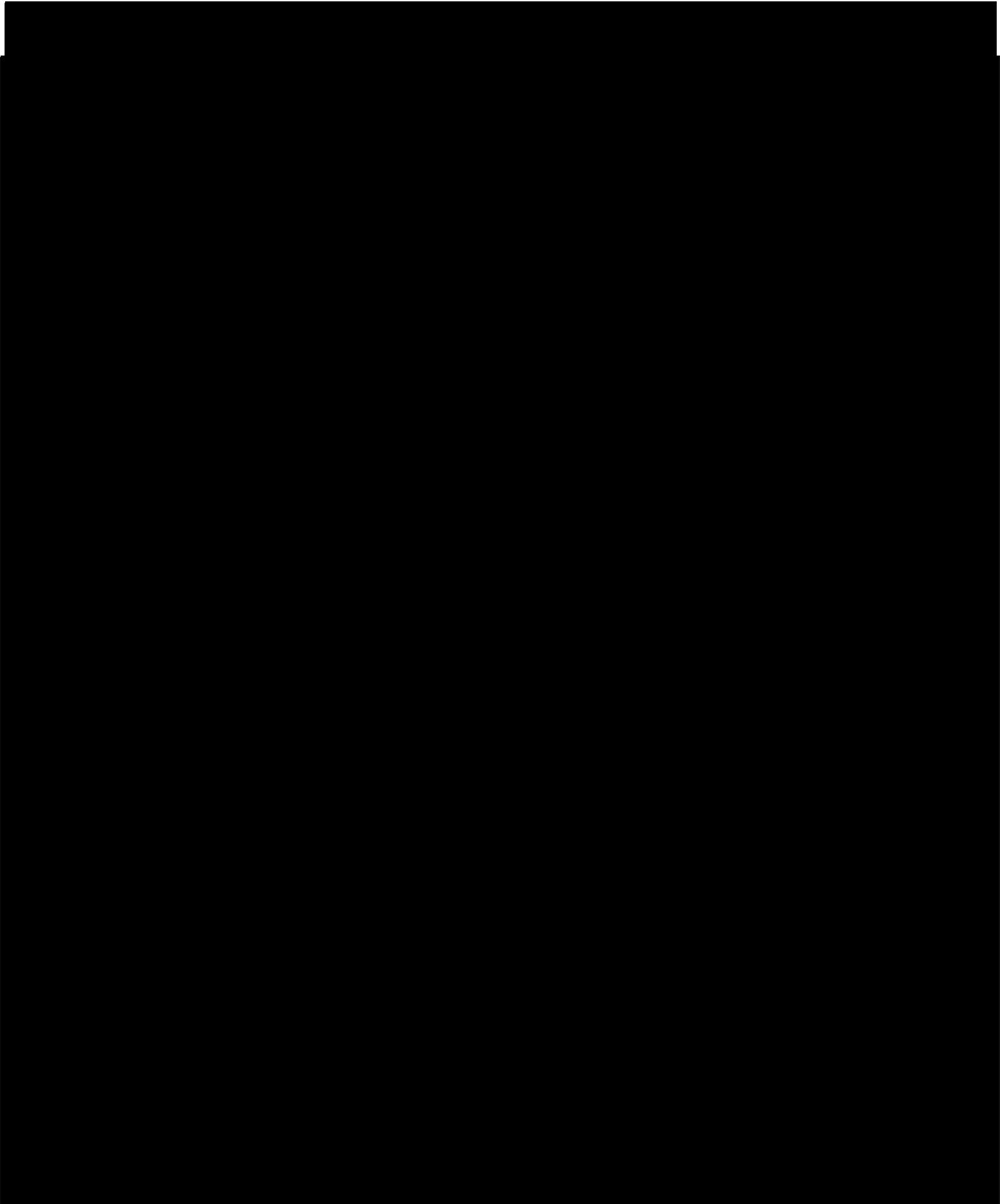
I also have a legal right to a complete copy of any physical examination done of me regardless of who paid for it since it was my body I gave permission to examine and I who signed a release to allow the City of Peoria to receive a copy of it. If there is a law that allows you to refuse to give me a complete copy of my own physical, please provide me with a copy of that statute.

Please supply me the name of the person who has refused to allow the doctor's office to send me a complete unredacted copy and please give me the specific reason or reasons they refused.

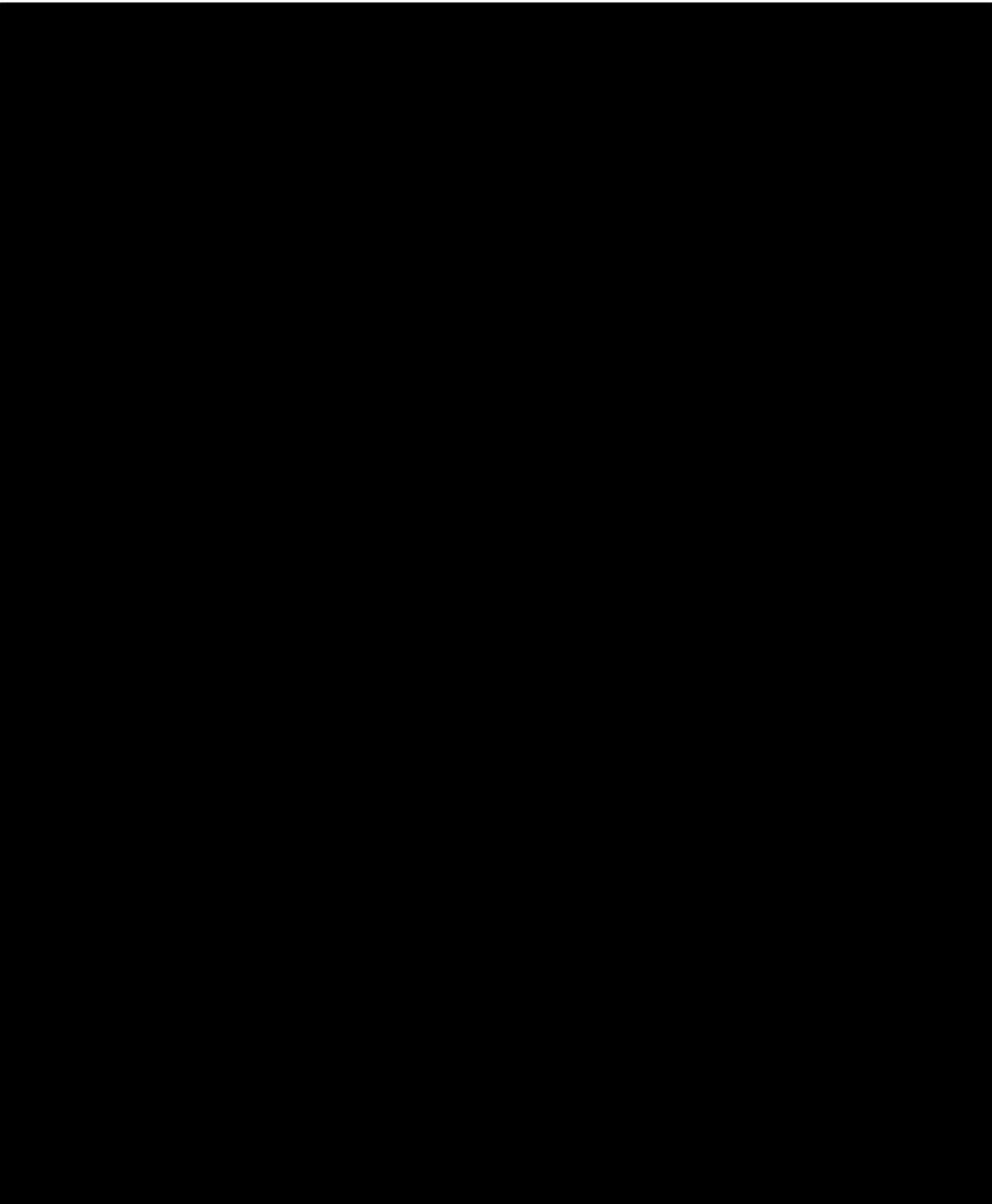
Thank you.

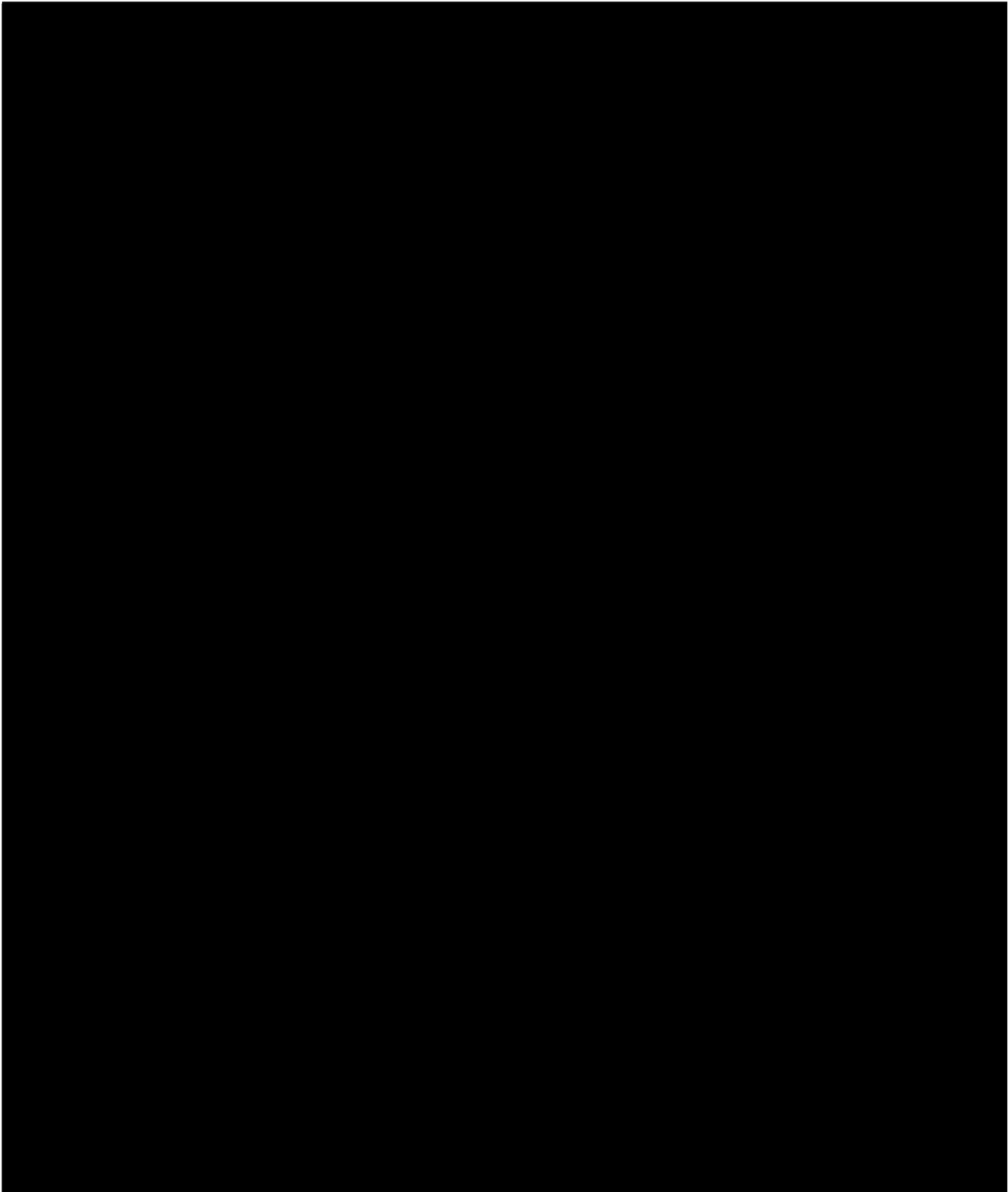
[REDACTED]  
[REDACTED], Applicant, 2008 Early Voting Board Worker

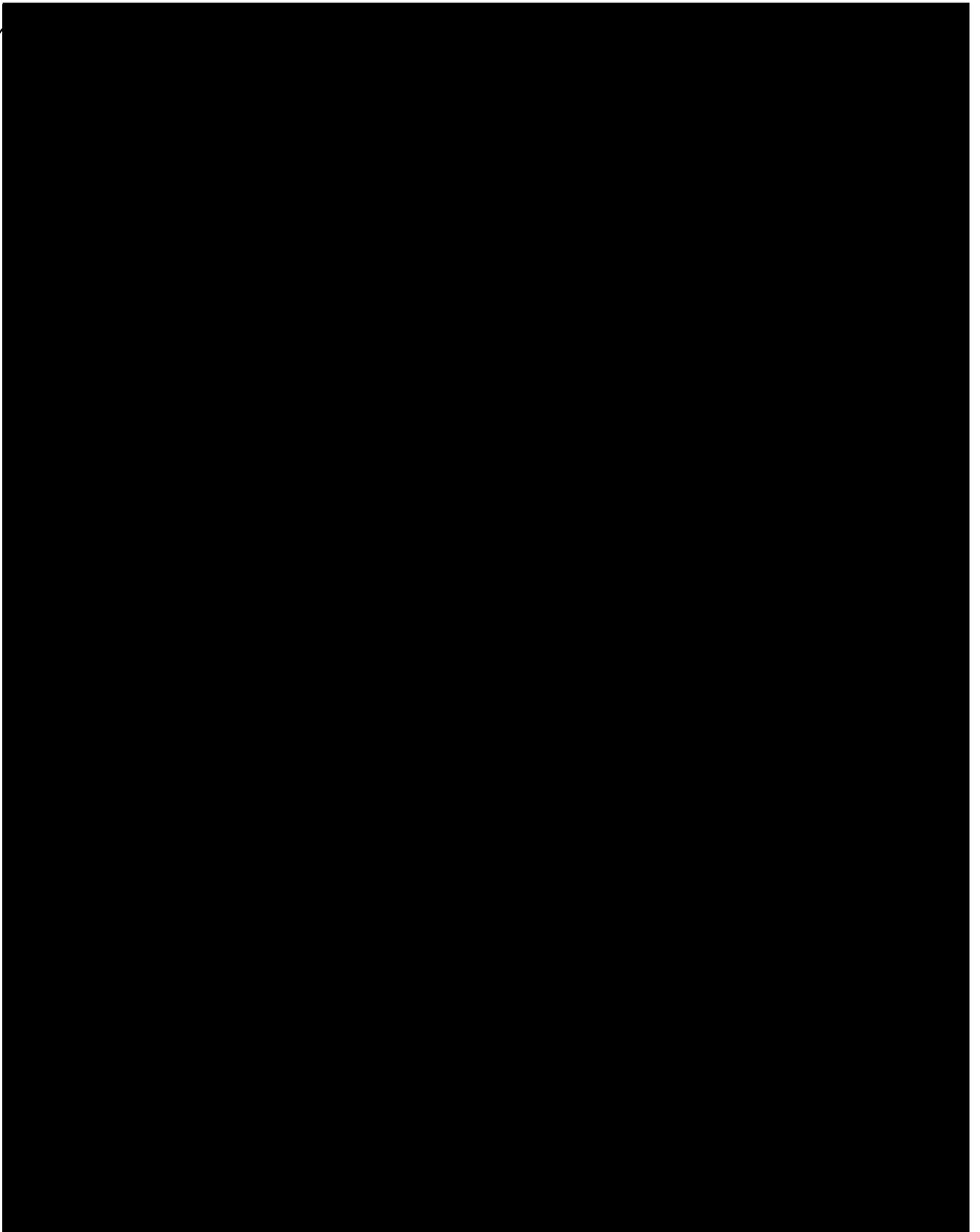
**EXHIBIT 15**



1









## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

July 1, 2009

### VIA HAND DELIVERY

Gail Styles, OAA  
U. S. Equal Employment Opportunity Commission  
Phoenix District Office  
3300 North Central Avenue, Suite 690  
Phoenix, Arizona 85012

Re: Position Statement  
Charge No. 540-2009-02921  
[REDACTED]/City of Peoria

Dear Ms. Styles:

This letter shall serve as the City of Peoria's ("City") position statement with respect to the above referenced Charge of Discrimination (the "Charge"). The Charge was filed with your office on or about May 18, 2009 by [REDACTED], an individual who applied for a Temporary Board (i.e., Election) Worker position with the City in the City Clerk's Office/Department.

At the outset, it should be noted that the City is an equal employment employer. In fact, City supervisors are subject to evaluation and even discipline based on their commitment and actions regarding equal employment opportunities.

In this particular instance, the City treated [REDACTED] fairly and consistently with other applicants, and in no way has the City discriminated against [REDACTED] on the basis of disability. [REDACTED] allegations in this Charge are without merit, and the City respectfully suggests that they should be declared unfounded.

#### 1. Description of the City

The City is an Arizona municipal corporation, created by Charter in 1954, that employs in excess of 1,500 employees who perform a wide range of local government services for the public. The City Clerk serves as Clerk to the City Council, keeps the corporate seal, attests official City signatures, files and

records City Council actions and documents. The City Clerk also serves as the Chief Elections Officer for the City and is responsible for conducting all municipal elections. The City Clerk's Office/Department consists of approximately nine (9) full-time job positions allocated among four (4) Divisions: Administration, Public Records and Information, Elections, and Passports. (See City Clerk's Office/Department Organizational Chart, attached as Attachment 1.) The Temporary Board Worker position that [REDACTED] applied for is one of three (3) Board Worker positions for the Primary Elections (August 6, 2008 – August 29, 2008) and one of two (2) Board Worker positions for the General Elections (October 6, 2008 – October 31, 2008).

2. Contact Information

The City's legal address is:

City of Peoria  
8401 W. Monroe Street  
Peoria, Arizona 85345

The contact information for the person responsible for responding to this Charge is:

Cheryl A. Boswell  
Assistant City Attorney  
City of Peoria  
8401 W. Monroe Street  
Peoria, Arizona 85345  
(623) 773-7330

3. City's Response to Factual Allegations Listed in Charge

Prior to filing her Charge, [REDACTED] contacted the City several times in writing.

1) The first written communication was on September 8, 2008 requesting the medical records from the City's pre-employment physical. (See [REDACTED] September 8, 2008 Letter, attached as Attachment 2.) The City responded to [REDACTED] on September 29, 2008 and provided her with a redacted copy of the medical records. (See Cheryl Boswell September 29, 2008 Letter, attached as Attachment 3.)

2) The second written communications were dated November 17, 2008 and were letters to four different individuals at the City (i.e., Mary Jo Kief, City Clerk; Debbie Meythaler, Human Resources Specialist; Nancy Fantasia, Benefits Administrator and me), informing the City that the medical records of her

physical were not complete and were incorrect. (See [REDACTED] Four (4) November 17, 2008 Letters, attached as Attachments 4, 5, 6 and 7.) The City responded to [REDACTED] on December 3, 2008 informing her that the City has to rely on the medical records in their current form unless informed differently by the medical professional. (See Cheryl Boswell December 3, 2008 Letter, attached as Attachment 8.)

In her Charge, [REDACTED] submitted a one paragraph Discrimination Statement containing particulars/factual allegations. The City first will respond to each sentence of the factual allegations separately in the order raised in the Charge. Then the City will briefly note other facts relevant to the Charge.

1) "On or about July 22, 2008, I [sic] and co-worker [REDACTED] completed the necessary paperwork/applications to initiate our employment with the Respondent." Agree. [REDACTED] application was dated July 22, 2008.

2) "We were provided employee packets, given entrance badges and introduced to other employees." Partially agree. The City acknowledges that the candidates (i.e., possible employees) were given badges and introduced to other candidates (possible employees), but they would not be eligible to be hired unless and until they successfully completed the pre-employment physical, drug and criminal background screening. It was communicated to the candidates that employment would be contingent upon the candidate's successful completion of a pre-employment physical, drug and criminal background screening, as is required of all City employees. Disagree. [REDACTED] and candidate [REDACTED] were not introduced to "other employees." The candidates were introduced to other candidates (possible employees). (See HR – Debbie Meythaler, July 18, 2008 E-Mail to Mary Jo Kief - Board Workers Job Offers Status, attached as Attachment 9.)

3) "[REDACTED] and I were both informed that we needed to have physicals." Agree. All City employees are required to have a pre-employment physical, drug and criminal background screening. I suspect that Board Workers in the past were not required to get a physical, etc. because in the past they were not City employees, but rather Maricopa County employees. This year Maricopa County who usually provides the workers, informed the City that due to budget cutbacks they would not be able to provide Board Worker employees and the City would have to hire their own Board Worker employees. Maricopa County did however provide the City with a list of names of possible employees. The City used that list (without vetting) and contacted the first names on the list as candidates for Board Worker employees.

4) "Upon the completion of the physicals we were both informed by Respondent that we did not pass and therefore we were no longer hired for the

positions on August 1, 2008." Partially agree. Upon completion of [REDACTED] physical, the Doctor's (i.e., [REDACTED]) recommendation based on an examination of [REDACTED] and information provided by [REDACTED] was that [REDACTED] would only be able to work with certain restrictions (i.e., no bending (at waist) and no flexion (downward looking) of neck). (See [REDACTED] [REDACTED], attached as Attachment 10.) The restrictions that the Doctor placed on [REDACTED] would not allow a Board Worker to perform the essential (critical) duties/functions of the job for the position of Board Worker. (See Daily Requirements/Duties of a Board Worker for the City of Peoria's Early Voting Satellite Location, attached as Attachment 11.) The City relied on the medical Doctor's expert opinion with reference to the restrictions that were placed on [REDACTED] ability to work and in doing so was being a responsible conscientious employer.

The essential functions for the position of a Board Worker cannot be completed from a sedentary position. Board Workers need to be able to lookup (read and search for) every voter on the computerized Registration Records and fill out control slips for every voter which requires constant movement (looking up and down and back and forth) from looking at the monitor, to looking down at the keyboard and the control slips and up at the voter. While looking up every voter on the computerized Registration Records and filling out control slips for every voter is done while sitting down at a desk or table it still requires constant flexion (downward looking) of the neck. Board Workers also must print a ballot for every voter and bend over and reload the printer with ballot paper. The printer that prints the ballots is approximately forty-four (44) inches by twenty-four (24) inches in size and is located approximately twelve (12) or more feet away from the desk or table where the computer monitor is located. (See Attachment 11.) Board Workers also must carry, setup and take down Monday through Friday approximately eight (8) sandwich board signs (weighing fifteen (15) pounds and standing four (4) feet high and three (3) feet wide) around the City Hall Campus at various locations. (See City of Peoria Municipal Campus Map, attached as Attachment 12.) Carrying, setting up and taking down the sandwich board signs require an individual to bend over at the waist. [REDACTED] Doctor's recommendation stated that based on an examination of [REDACTED] and information provided by [REDACTED] she would only be able to work with the restrictions of no bending (at waist) and no flexion (downward looking) of neck. Bending at the waist and neck flexion (downward looking) is needed to perform the essential functions of the job requirements of a Board Worker.

Disagree, that [REDACTED] was told that she was no longer hired for the position because [REDACTED] would not (or could not) be hired prior to a pre-employment physical, drug and criminal background screening. Emphasis added. It was explained to the candidates that employment would be contingent on each applicant successfully completing the pre-employment physical, drug and

criminal background screening as is required for all City of Peoria employees. Therefore, ██████████ was never told that she was no longer hired for the position, but rather she was told that she would not be hired since her medical examination stated that she would only be able to work with certain restrictions which were incompatible with the essential functions of the Board Worker position. Emphasis added.

5) "I believe I was discriminated against because of my disability, in violation of the Americans with Disabilities Act of 1990." Disagree. The City was unaware of ██████████ having a disability. ██████████ did not indicate that she had a disability on her City of Peoria Applicant Profile. (See City of Peoria Employment Applicant Profile, attached as Attachment 13.) In fact, in ██████████ various communications to several City staff members she refers to her "alleged handicap" and "two other alleged handicaps the doctor reported on my ██████████ physical." (See ██████████ November 17, 2008 Letter, attached as Attachment 14.) By her own account (in her various letters) ██████████ did (or does) not believe that she has a disability and stated that she did not have a disability and that such was incorrect, in error, or was alleged, but in her Charge she states that "I believe I was discriminated against because of my disability, in violation of the Americans with Disabilities Act of 1990." One cannot state that they do not have a disability (i.e., "alleged handicap" and "two other alleged handicaps the doctor reported on my ██████████ physical") then assert when they are not hired, claim a disability - which they had earlier said they did not have.

Additionally, one cannot claim disability discrimination against the City for not hiring them because of their disability and also assert that the City hired a "person in my place [that] was older and more disabled than I" for the same position. (See Attachment 14.)

Other factual information relevant to the Charge includes, by category:

**Background of the Position:** Board Worker employees that worked at the City's Early Voting Satellite location in the past were Maricopa County employees. But this year, Maricopa County who usually provided the workers, informed the City that due to budget cutbacks they would not be able to provide Board Worker employees and the City would have to hire their own Board Worker employees. The City's Board Worker positions require that Board Workers perform certain job specific tasks. (See Attachment 11.) Board Workers receive supervision from the City Clerk who serves as the City's Chief Elections Officer and is responsible for conducting all municipal elections and overseeing the City's Primary and General Election satellite location in Peoria at the City.

**Background of the Recruitment:** When the City became aware that it would have to hire Board Worker employees this year, the City simply used a list of candidates that was provided by Maricopa County (without vetting) and contacted the first names on the list as candidates for Board Worker employees.

**Screening Process:** There was not a formal screening or vetting process other than the City's pre-employment physical, drug and criminal background screening. The City simply contacted the names on the list (provided by Maricopa County). The City needed three (3) Board Workers for the Primary Elections and two (2) Board Workers for the General Elections and selected the names from the list provided by Maricopa County. There was not a City recruitment for the Board Worker positions.

**Interview Process:** There also were not any formal interviews or an interview process. The City simply contacted the names on the list (provided by Maricopa County) and if the individuals were interested they came in and filled out a City job application and were informed of the City's hiring process (i.e., the pre-employment physical, drug and criminal background screening).

**Evaluation of the Candidates/Applicants:** There was not an evaluation process of the candidates. If the candidates successfully completed the pre-employment physical (without restrictions which were critical to performing the essential duties/functions of the job of Board Worker), drug and criminal background screening they were hired. (See Board Workers Banner Occupational Health Services Work Status Reports, attached as Attachment 15.)

#### 4. City's Response to Discrimination Statement

██████████ was not hired as a Board Worker because the City was informed by the Doctor who performed a physical on ██████████ and whose recommendation was that ██████████ would only be able to work as a Board Worker with certain restrictions (i.e., no bending (at waist) and no flexion (downward looking) of neck). The Doctor's restrictions prohibited ██████████ from successfully performing essential functions/duties of a Board Worker (i.e., no bending (at waist) and no flexion (downward looking) of neck). However, the restrictions do not appear to render her disable or to qualify as a disability under the Americans with Disabilities Act of 1990 ("ADA"). Simply having a physical impairment (i.e., no bending (at waist) and no flexion (downward looking) of neck) is not enough to trigger the ADA. To have a disability under the ADA, a person must:

- have a physical or mental impairment that substantially limits one or more major life activities
- have a record of being substantially limited, or

- be regarded as being substantially limited.

The Supreme Court established that to qualify under the ADA's definition of disability a claimant (██████████) must prove that she has a physical or mental impairment and that the impairment substantially limits a major life activity. *Mink v. Wal-Mart Stores, Inc.*, 185 F.Supp.2d 659 (2002) (citing *Toyota Motor Manufacturing v. Williams*, 534 U.S. 184, 122 S.Ct. 681 (2002) (citing 42 U.S.C. § 12102(2)(A)). "Major life activities" refer to those activities that are of central importance to daily life. *Id.* at 663, (citing *Toyota* at 690-91). Major life activities include functions such as "caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working." *Id.* (citing *Sutton v. United Airlines, Inc.*, 527 U.S. 471, 480, 119 S.Ct. 2139, 21, (citing CFR §1630.2(i))). "When the major life activity under consideration is that of working, the statutory phrase 'substantially limits' requires ... that the claimant allege that they are unable to work in a broad class of jobs, rather than a specific job." *Id.* (citing *Sutton* at 491). When addressing the major life activity of performing manual tasks, the central inquiry must be whether the claimant (██████████) is unable to perform the variety of tasks central to most people's daily lives, not whether the claimant is unable to perform the tasks associated with the specific job (i.e., of a Board Worker). *Id.* (citing *Toyota* at 692-93).

The facts in this Charge do not offer even a scintilla of evidence that ██████████ is unable to perform the variety of tasks central to most people's daily lives. Simply having a physical restriction placed on your ability to work as a Board Worker is not enough to trigger the ADA. To trigger the ADA a physical or mental impairment must exist that substantially limits one or more major life activities, which ██████████ fails to meet or prove. In fact, in referring to her restrictions ██████████ used the words "alleged handicap," she states that:

The [physical] records as written are incorrect and not complete. They are the result of a failure to communicate, have left out facts, and contain errors which need to be corrected.

I offered to meet with the doctor for five minutes to correct them. I demonstrated to the clinic office manager I can bend my head to look down and I can touch the floor next to my toes with my knees remaining straight, therefore able to bend down. Also, the request for me to 'squat' was dangerous and could have caused me very serious injury had I done it the way the doctor requested.

(See Attachment 7.) By her own account (in her various letters) ██████████ did not believe she had a disability and stated that she did not have a disability but that such restrictions placed on her ability to work were incorrect, in error, or were alleged.

██████████ fails in all aspects of the judicial burden-shifting framework:

1. ██████████ establishes no "prima facie case" of disability discrimination. To establish a prima facie case of disability discrimination requires proof that: (1) she was disabled within the meaning of the ADA, (2) she was qualified for the position, with or without an accommodation, (3) she suffered an adverse employment decision because of her disability, and (4) she was replaced by a non-disabled person. Americans with Disabilities Act of 1990, § *et seq.*, 42 U.S.C. § 12101 *et seq.* ██████████ fails to prove one of the four prongs of a prima facie case of disability discrimination. Moreover, with reference to the fourth prong (that she was replaced by a non-disabled person) ██████████ asserts in her November 17, 2008 Letter (to Mary Jo Kief) that the City hired a "person in my place [that] was older and more disabled than I" for the same position. (See Attachment 14.)

2. However, even if a "prima facie case" did exist, the City has met its burden of producing evidence that the successful candidates chosen to be Board Workers were chosen (preferred) for legitimate, non-discriminatory reasons (i.e., there being no restrictions placed on their performing the essential functions of Board Workers). The fact that the City simply hired candidates who successfully completed (without restrictions of essential job function requirements) the pre-employment physical, drug and criminal background screening confirms that the City using the names from the list of candidates that was provided by Maricopa County was legitimate and unbiased.

3. ██████████ then also fails to meet her second burden – to show that the City's offered reasons for not selecting her as a Board Worker were a pretext for discrimination and that the reasons for hiring the successful candidates is also a pretext for discrimination. ██████████ provides no facts that show a discriminatory motive by anyone at the City and produces no facts that show the City's explanation for not hiring ██████████ and its hiring decisions are not credible.

The City has a strong commitment to a policy that does not support discrimination of any form in the workplace. In this instance we have been provided with no evidence that the City or any of its employees has violated this policy in any manner. The City concluded that the hiring process had been fair and that no discrimination had taken place. The City believes that after you review the Charge, you will conclude that ██████████ discrimination claim has no merit and will dismiss her Charge of discrimination accordingly.

I declare under penalty of perjury that the foregoing is true and correct. If you need additional information to complete your investigation or have any further questions, please do not hesitate to contact me.

Sincerely,

OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

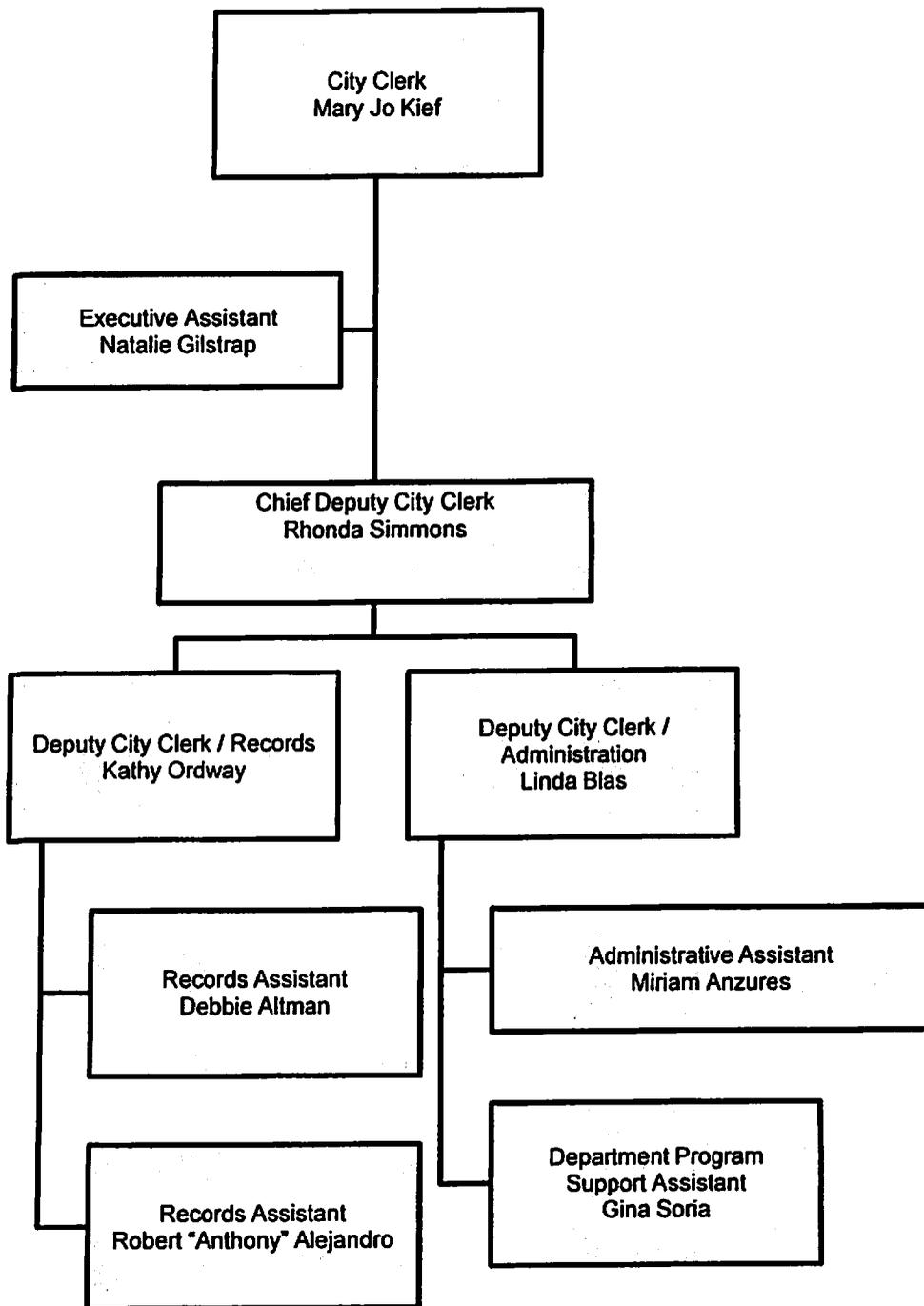


Cheryl A. Boswell  
Assistant City Attorney

cc: - Wynette Reed, Human Resources Director (w/o Attachments)  
- Mary Jo Kief, City Clerk (w/o Attachments)

**EXHIBIT 1**

Office of the City Clerk  
Organization Chart  
October 2008



**EXHIBIT 2**

RECEIVED  
SEP 9 2008  
CITY OF PEORIA, AR

September 8, 2008

CC: Debbie Meyphaler  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

Ms. Nancy Fantasia  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

## REQUEST FOR PERSONAL MEDICAL RECORDS

On [REDACTED] I visited the [REDACTED] to receive a physical which the City of Peoria required as part of my application for (Election) Board Worker.

I signed a Release at the [REDACTED] allowing the results of the Physical to be given to the City of Peoria. At that time, I also requested a copy of those medical records be sent to me.

On August 12, I again visited the [REDACTED] and requested a copy of my medical records.

At that time, I also requested an opportunity to correct a failure to communicate with the Doctor administering the physical, which resulted in a demonstrated incorrect report.

To date, I have not received a copy of these records to which I believe I have a legal right. Please let me know if there is a charge to cover photocopying and mailing.

If you believe I am not legally entitled to these records, please inform me of the exact statute or federal law upon which you rely. Otherwise, please forward a copy of my medical records to the address above or call and I will pick them up and pay any copying charges involved.

Thank you.

[REDACTED]  
[REDACTED] Applicant  
Early Voting Board Worker for the City of Peoria

**EXHIBIT 3**



## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

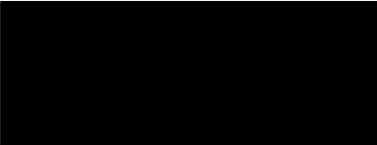
Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

September 29, 2008

VIA U. S. MAIL



Re: Release of City Acquired Medical Records

Dear [REDACTED]:

The City of Peoria ("City") is in receipt of your request for a copy of your medical records from a physical that was requested and paid for by the City. The City takes the position that all such medical records are confidential and are the property of the City's.

While the City understands and acknowledges the public's right to inspect public records, such right is not without qualification. ARIZ. OP. Att'y. GEN. No. 75-721 (1976). Information contained in records may be treated as confidential. *Id.* It has been the City's position that release of information in medical records is confidential and of a nature that it would be against the best interests of the City to permit disclosure of medical records.

However, since the law supports the position that even if portions of a document merit confidentiality, a practical alternative to the complete denial of access would be deleting specific information. *Phoenix Newspapers, Inc. v. Ellis*, 215 Ariz. 268 (App. Div. 2007). The City is taking such approach and providing you with a redacted version of the record.

Sincerely,  
OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

A handwritten signature in black ink, appearing to read "Cheryl A. Boswell".

Cheryl A. Boswell  
Assistant City Attorney

cc: - Nancy Fantasia, Human Resources Analyst

CAB:dag

i:\uscra\hum.rcs\medical records release-2.docx  
September 26, 2008 s/c dag

**EXHIBIT 4**

[REDACTED]

November 17, 2008

Ms. Mary Jo Kief, City Clerk  
City of Peoria  
8401 W. Monroe  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker" for the City Clerk. We were highly recommended by the Maricopa County Elections Department to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED] we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished after 6 pm.

Despite a failure to communicate, the physician who saw me cleared me for sedentary work.

We attended an Early Voting class on July 24 from 9 am to 4 pm held at the County Election Center, where we demonstrated we were fully qualified for the job as Early Election workers. To the best of my knowledge, we were never paid for this training.

Circa August 1, Debbie Meyphaler called to tell me I was not hired because I did not pass my physical. Please forward this complete decision to me in writing and explain in detail why I was not hired.

Please give me the name of the person who made the decision and tell me why the person hired in my place was older and more disabled than I. Please be specific.

Please forward to me the written Job Description for the job for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I "squat."

Explain why the City of Peoria was not able to accommodate my alleged handicap when the doctor reported I was "only capable" of "squatting" 45%, especially since every other employer I ever had provided a chair and desk for computer work and rest rooms rather than a space behind a tree in the back of the building to "squat" to relieve one's self.

The two other alleged handicaps the doctor reported on my physical, inability to look down or to bend down are both false. I looked down in front of him. If the doctor had asked, I could have bent down to touch the floor with my finger tips with my knees straight, as I did for the clinic office manager. I can also lift heavy objects and do pushups. There was an obvious failure to communicate during the exam.

[REDACTED], November 17, 2008

Page 2 of 2

I asked to see the doctor for five minutes to correct the record by demonstrating the errors to the doctor. I was not notified the errors were corrected nor been given an opportunity to meet with him.

The conditions under which the doctor asked me to "squat" were very precarious. His request could have caused me to severely injure to my shoulder, knees, and/or derriere, perhaps even my wrist or elbow breaking a fall. The examination table he told me to hold onto was so extremely slippery my hand kept sliding off and it was too high for me to lean or brace myself on it.

Further, if I squatted the way the doctor asked me to with my knees in front of me, placing my full weight at the time of 180 lbs on my knees without using a chair to support part of my weight, I could have damaged my knees so severely I may have required surgery, which may not have repaired my knees to 100% again. His request for me to not squat correctly was very dangerous.

I was also shocked he asked me to "squat" while wearing a hospital type exam gown and just my under pants. I was very self conscious about keeping my knees together to keep the hem of the gown from rising over my knees. The only reason I tried to comply and did not refuse was that I did not want the City of Peoria to think I was uncooperative.

If the City of Peoria has a policy to not hire workers over a certain age, if handicapped, or for some other reason, regardless if they are qualified to do the job, please inform me in writing and supply me with a detailed copy of the policy, who approved it, and when.

Please tell me who made the final decision to not hire me and what they noted on my application and in my file as the reason for their decision. Please supply me with an unredacted photocopy of my application and any notations made about me in my file that is part of my permanent record. I have a right to know what was written about me.

I also have a legal right to a complete unredacted copy of any physical examination done of me regardless of who paid for it. After all, it was my body I gave permission to examine and I who signed a release to allow the City of Peoria to receive a copy of it. If there is a law that allows you to refuse to give me a complete copy of my own physical, please provide me with a copy of it.

Please supply me the name of the person who has refused to allow the doctor's office to send me a copy and please give me the specific reason or reasons they refused.

Thank you. \

[REDACTED]  
Applicant, 2008 Early Voting Board Worker

**EXHIBIT 5**

RECEIVED

NOV 20 2008

CITY OF PEORIA/HR

November 17, 2008

Debbie Meyphaler  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker." We were highly recommended by the Maricopa County Elections Department to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED] we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished after 6 pm.

Despite a failure to communicate, the physician who saw me cleared me for sedentary work.

We attended an Early Voting class on July 24 from 9 am to 4 pm held at the County Election Center, where we demonstrated we were fully qualified for the job as Early Election workers. To the best of my knowledge, we were never paid for this training.

Circa August 1, you called to tell me I was not hired because I did not pass my physical. Please forward this complete decision to me in writing and explain in detail why I was not hired. Please give me the name of the person who made the decision and tell me why the person hired in my place was older and more disabled than I. Please be specific.

Please forward to me the written Job Description for the job for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I "squat."

Explain why the City of Peoria was not able to accommodate my alleged handicap when the doctor reported I was "only capable" of "squatting" 45%, especially since every other employer I ever had provided a chair and desk for computer work and rest rooms rather than a space behind a tree in the back of the building to "squat" to relieve one's self.

The two other alleged handicaps the doctor reported on my physical, inability to look down or to bend down are both false. I looked down in front of him. If the doctor had asked, I could have bent down to touch the floor with my finger tips with my knees straight, as I did for the clinic office manager. I can also lift heavy objects and do pushups. There was an obvious failure to communicate during the exam.

I asked to see the doctor for five minutes to correct the record by demonstrating the errors to the doctor. I was not notified the errors were corrected nor been given an opportunity to meet with him.

[REDACTED], November 17, 2008

Page 2 of 2

The conditions under which the doctor asked me to "squat" were very precarious. His request could have caused me to severely injure to my shoulder, knees, and/or derriere, perhaps even my wrist or elbow breaking a fall. The examination table he told me to hold onto was so extremely slippery my hand kept sliding off and it was too high for me to lean or brace myself on it.

Further, if I squatted the way the doctor asked me to with my knees in front of me, placing my full weight at the time of 180 lbs on my knees without using a chair to support part of my weight, I could have damaged my knees so severely I may have required surgery, which may not have repaired my knees to 100% again. His request for me to not squat correctly was very dangerous.

I was also shocked he asked me to "squat" while wearing a hospital type exam gown and just my under pants. I was very self conscious about keeping my knees together to keep the hem of the gown from rising over my knees. The only reason I tried to comply and did not refuse was that I did not want the City of Peoria to think I was uncooperative.

If the City of Peoria has a policy to not hire workers over a certain age, if handicapped, or for some other reason, regardless if they are qualified to do the job, please inform me in writing and supply me with a detailed copy of the policy, who approved it, and when.

Please tell me who made the final decision to not hire me and what they noted on my application and in my file as the reason for their decision.

Please supply me with an unredacted photocopy of my application and any notations made about me in my file that is part of my permanent record. I have a right to know what was written about me.

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Please supply me the name of the person who has refused to allow the doctor's office to send me a copy and please give me the specific reason or reasons they refused.

Thank you

[REDACTED]  
[REDACTED], Applicant, 2008 Early Voting Board Worker

**EXHIBIT 6**

RECEIVED

NOV 20 2008

CITY OF PEORIA/HR

[REDACTED]

November 17, 2008

Ms. Nancy Fantasia  
City of Peoria Human Resources Dept.  
8401 W. Monroe, Suite #110  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker." We were highly recommended by the Maricopa County Elections Department to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED] we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished after 6 pm.

Despite a failure to communicate, the physician who saw me cleared me for sedentary work.

We attended an Early Voting class on July 24 from 9 am to 4 pm held at the County Election Center, where we demonstrated we were fully qualified for the job as Early Election workers. To the best of my knowledge, we were never paid for this training.

Circa August 1, Debbie Meyphaler called to tell me I was not hired because I did not pass my physical. Please forward this complete decision to me in writing and explain in detail why I was not hired.

Please give me the name of the person who made the decision and tell me why the person hired in my place was older and more disabled than I. Please be specific.

Please forward to me the written Job Description for the job for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I "squat."

Explain why the City of Peoria was not able to accommodate my alleged handicap when the doctor reported I was "only capable" of "squatting" 45%, especially since every other employer I ever had provided a chair and desk for computer work and rest rooms rather than a space behind a tree in the back of the building to "squat" to relieve one's self.

The two other alleged handicaps the doctor reported on my physical, inability to look down or to bend down are both false. I looked down in front of him. If the doctor had asked, I could have bent down to touch the floor with my finger tips with my knees straight, as I did for the clinic office manager. I can also lift heavy objects and do pushups. There was an obvious failure to communicate during the exam.

[REDACTED] November 17, 2008

Page 2 of 2

I asked to see the doctor for five minutes to correct the record by demonstrating the errors to the doctor. I was not notified the errors were corrected nor been given an opportunity to meet with him.

The conditions under which the doctor asked me to "squat" were very precarious. His request could have caused me to severely injure to my shoulder, knees, and/or derriere, perhaps even my wrist or elbow breaking a fall. The examination table he told me to hold onto was so extremely slippery my hand kept sliding off and it was too high for me to lean or brace myself on it.

Further, if I squatted the way the doctor asked me to with my knees in front of me, placing my full weight at the time of 180 lbs on my knees without using a chair to support part of my weight, I could have damaged my knees so severely I may have required surgery, which may not have repaired my knees to 100% again. His request for me to not squat correctly was very dangerous.

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Please supply me the name of the person who has refused to allow the doctor's office to send me a copy and please give me the specific reason or reasons they refused.

Thank you.

[REDACTED]  
[REDACTED], Applicant, 2008 Early Voting Board Worker

**EXHIBIT 7**

[REDACTED]

November 17, 2008

Cheryl A. Boswell  
Assistant City Attorney  
8401 W. Monroe  
Peoria, Arizona 85345

RE: Your Response re: Release of City Acquired Medical Records

I received the redacted copy of my medical records of my physical paid for by the City of Peoria.

Unfortunately, they are not complete and therefore not sufficient. My medical records are not confidential to me. My doctor will request a complete copy in December. I am sure you will see she receives a complete unredacted copy.

I find it interesting you redacted the line in which the doctor cleared me to do sedentary work and therefore work as an Early Elections Board Worker. Please explain why you redacted that line.

The records as written are incorrect and not complete. They are the result of a failure to communicate, have left out facts, and contain errors which need to be corrected.

I offered to meet with the doctor for five minutes to correct them. I demonstrated to the clinic office manager I can bend my head to look down and I can touch the floor next to my toes with my knees remaining straight, therefore able to bend down. Also, the request for me to "squat" was dangerous and could have caused me very serious injury had I done it the way the doctor requested.

The office manager seemed more concerned with who would pay for the five minutes than if my records were correct or a dangerous situation corrected. My offer still stands. It is important to me my records are correct and do not contain false information. I would appreciate it if you can arrange this to be done.

I apologize for not answering sooner, but I just completed 15 days working long hours for the County Elections Department as a Trouble Shooter November 1 through 4, as a Hand Count Auditor at the Maricopa County Sheriff Facility November 5 through 7, and helping process ballots 10 to 12 hours a day from the afternoon of November 7 through November 15 at the Maricopa County Election Center.

[REDACTED]

[REDACTED] Applicant, 2008 Early Voting Board Worker

**EXHIBIT 8**



## City of Peoria

*Office of the City Attorney*

8401 W. Monroe Street, Peoria Arizona 85345

Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

December 3, 2008

VIA U. S. MAIL



Re: Incorrect and Incomplete Records

Dear [REDACTED]:

The City of Peoria ("City") is in receipt of your letters to Mary Jo Kief the City Clerk, Debbie Meythaler and Nancy Fantasia in Human Resources and me.

While it is your position that "the records as written are incorrect and not complete" the City has to rely on the records in their current state unless informed differently by the medical professional, which has not occurred. However, if you desire to have the records "corrected" (amended) you are free to schedule an appointment with the Doctor (at your expense) and provide him sufficient information (evidence) to support any change. Once that occurs, the Doctor will forward any change (amendment) to the City and the City will place such in your file.

Your desire to "correct" (amend) the records is somewhat of a moot issue since you worked for the Maricopa County Elections Department and the City's need for individuals to staff the Early Voting Satellite Location cease to exist, since the election season is over. Should you apply in the future to work another election season for the City, the City would require that you (or any individual) have another physical.

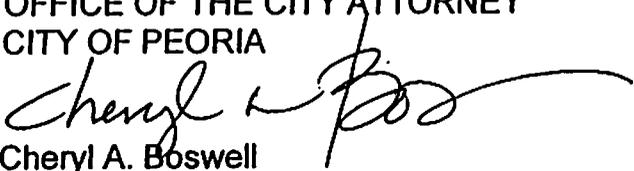
Having the medical records in their current state on file with the City should not be particularly damaging to you since the City generally does not release such information. While the City understands and acknowledges the public's right and your right to inspect public records, such right is not without qualification. ARIZ. OP. Att'y. GEN. No. 75-721 (1976). Information contained in records may be treated as confidential. *Id.* It has been the City's position that release of information in medical records is confidential and of a nature that it would be against the best interests of the City to permit disclosure of medical records. However, since the law supports the position that even if portions of a document merit confidentiality, a practical alternative to the complete denial of

access would be deleting specific information. *Phoenix Newspapers, Inc. v. Ellis*, 215 Ariz. 268 (App. Div. 2007). The City took such an approach and provided you a redacted version of the record. There is no one person who has refused to allow the Doctor's office to send you a copy of medical records which are confidential and are the property of the City, but rather it is the City's policy as mentioned in my previous communication.

The City is an equal employment employer. In fact, City supervisors are subject to evaluation and even discipline based on their commitment and actions regarding equal employment opportunities. So, the statement you made in your letters to Mary Jo Kief, Debbie Meythaler and Nancy Fantasia about the City having "a policy to not hire workers over a certain age, if handicapped..." is untrue and unfounded. The City has a strong commitment to a policy that does not support discrimination of any form.

The U.S. Supreme Court has observed that Senator Hubert Humphrey, while explaining the proponents' understanding of Title VII as it was being debated in the U.S. Senate, stated that the law does not limit the employer's freedom to hire, fire, promote or demote for any reasons--or no reasons--so long as his action is not based on race, age, etc. *United Steelworkers of America v. Weber*, 443 U.S. 193, 237 (1979). In fact, the City makes its hiring decisions based on the information provided to the City at the time and the best applicant for the job with reference to the particular job requirements, individual's experience, etc. The City does not provide the names of a specific individual who made a decision not to hire a person, such is irrelevant. The City made a hiring decision based on available information at the time.

Sincerely,  
OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA

  
Cheryl A. Boswell  
Assistant City Attorney

cc: - Mary Jo Kief, City Clerk  
- Nancy Fantasia, Human Resources Analyst  
- Debbie Meythaler, Human Resources Specialist

CAB:dag

**EXHIBIT 9**

**From:** HR - Debbie Meythaler  
**Sent:** Friday, July 18, 2008 10:14 AM  
**To:** Mary Jo Kief; Gina Soria  
**Subject:** Board Workers Job offers status

Hello,

The following candidates have accepted the job offers for Board Workers. The following is some information for your records.

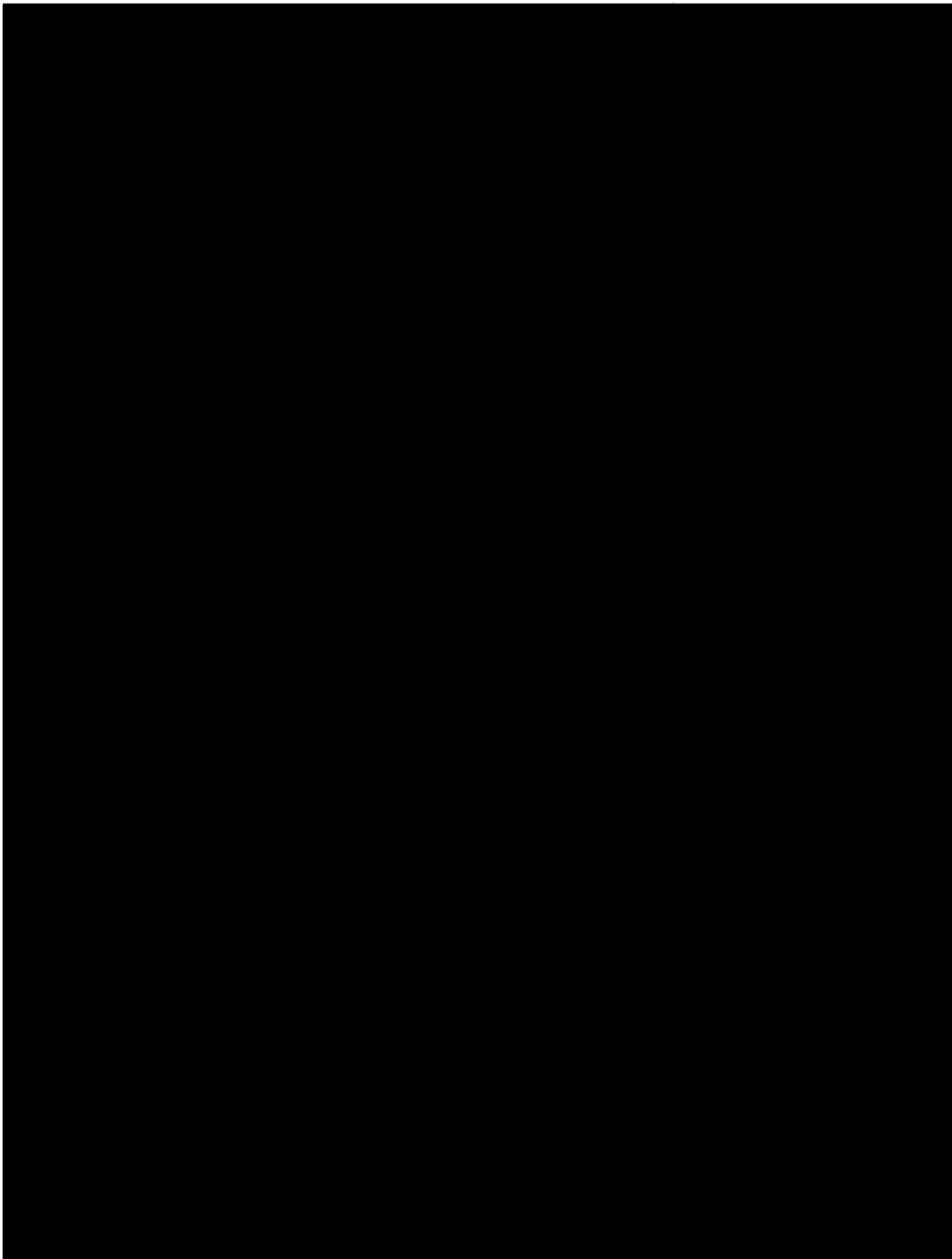
NAMES:	[REDACTED]
POSITION:	Board Worker
RATE:	\$10.00
STARTING DATE:	8/4/08

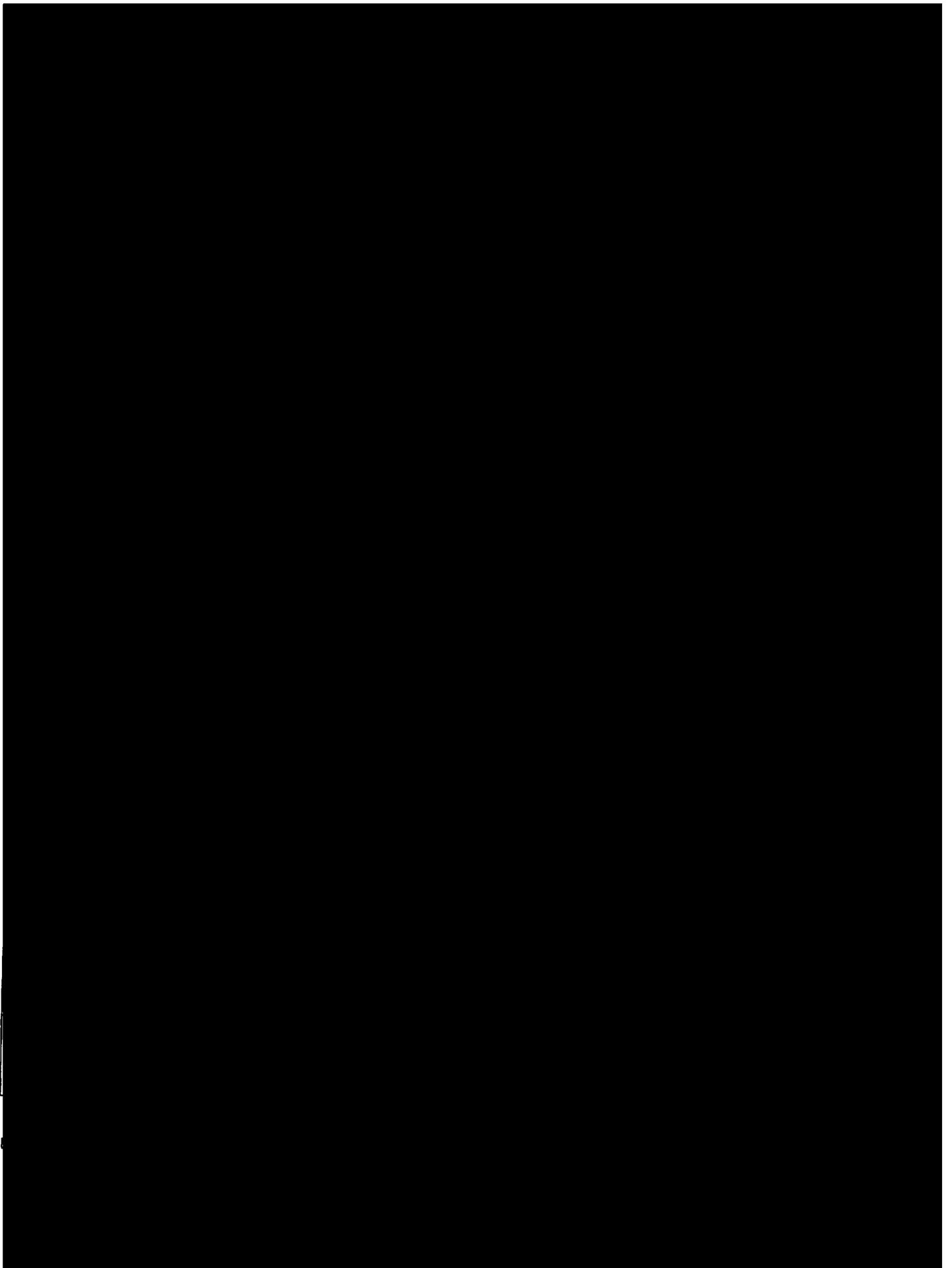
Starting date for all these candidates will depend on receiving the clearance for the pre-employment physical, drug and criminal background screenings. The candidates are scheduled the sign the new hire paperwork next week. FYI, [REDACTED] declined the job offer.

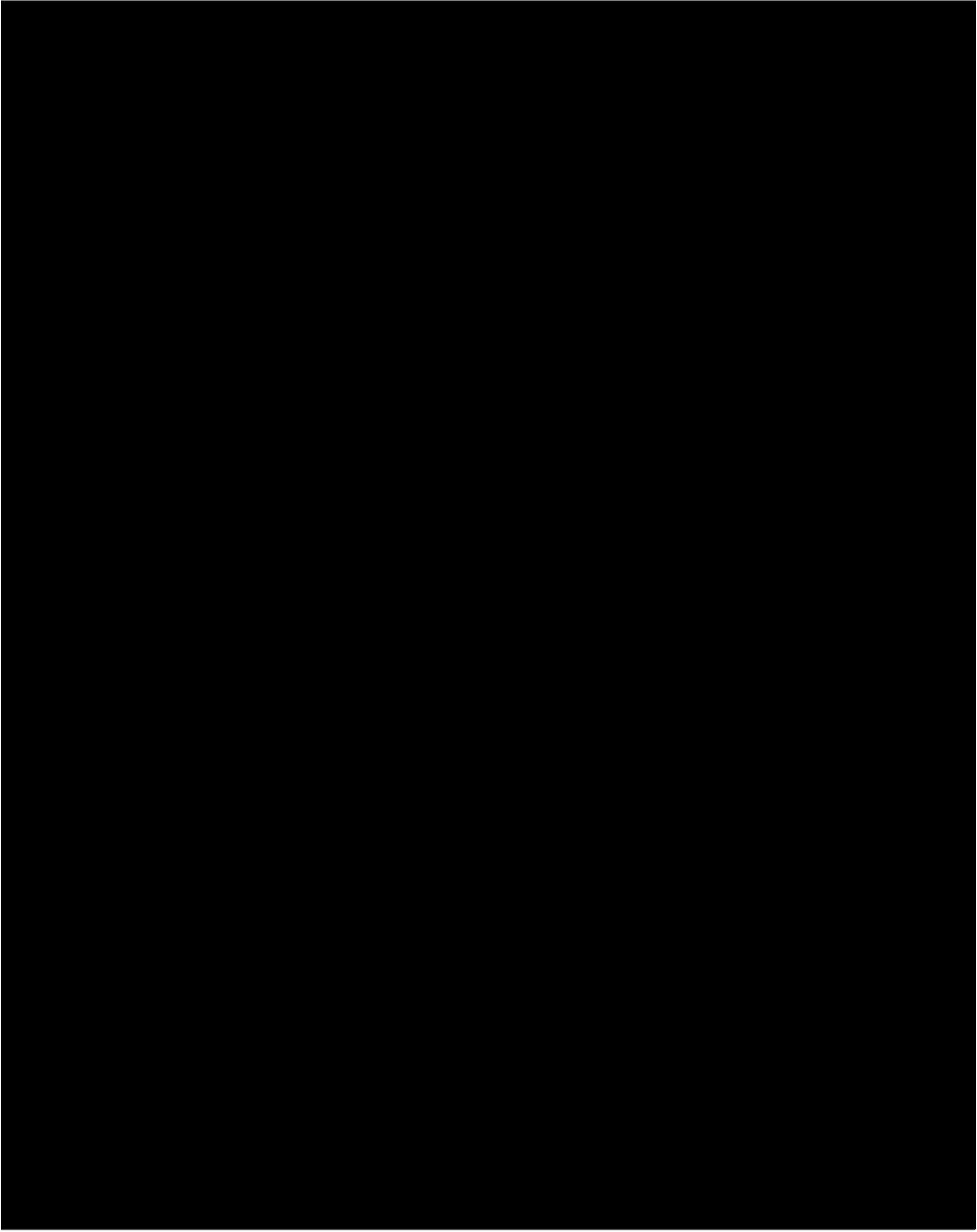
Please let me know if you have any questions or need additional information.

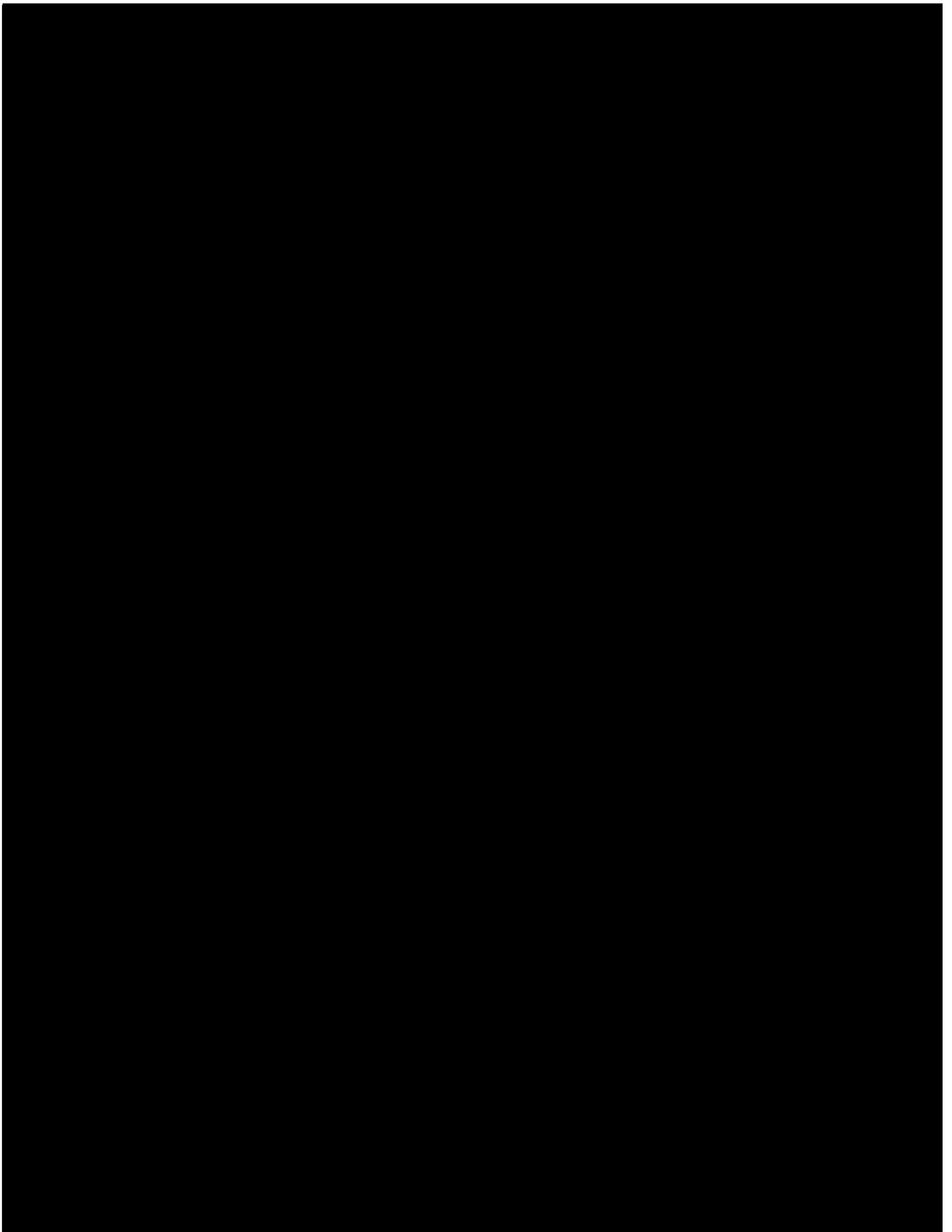
Make it a great day!  
 Debbie Meythaler  
 Human Resources Specialist  
 City of Peoria

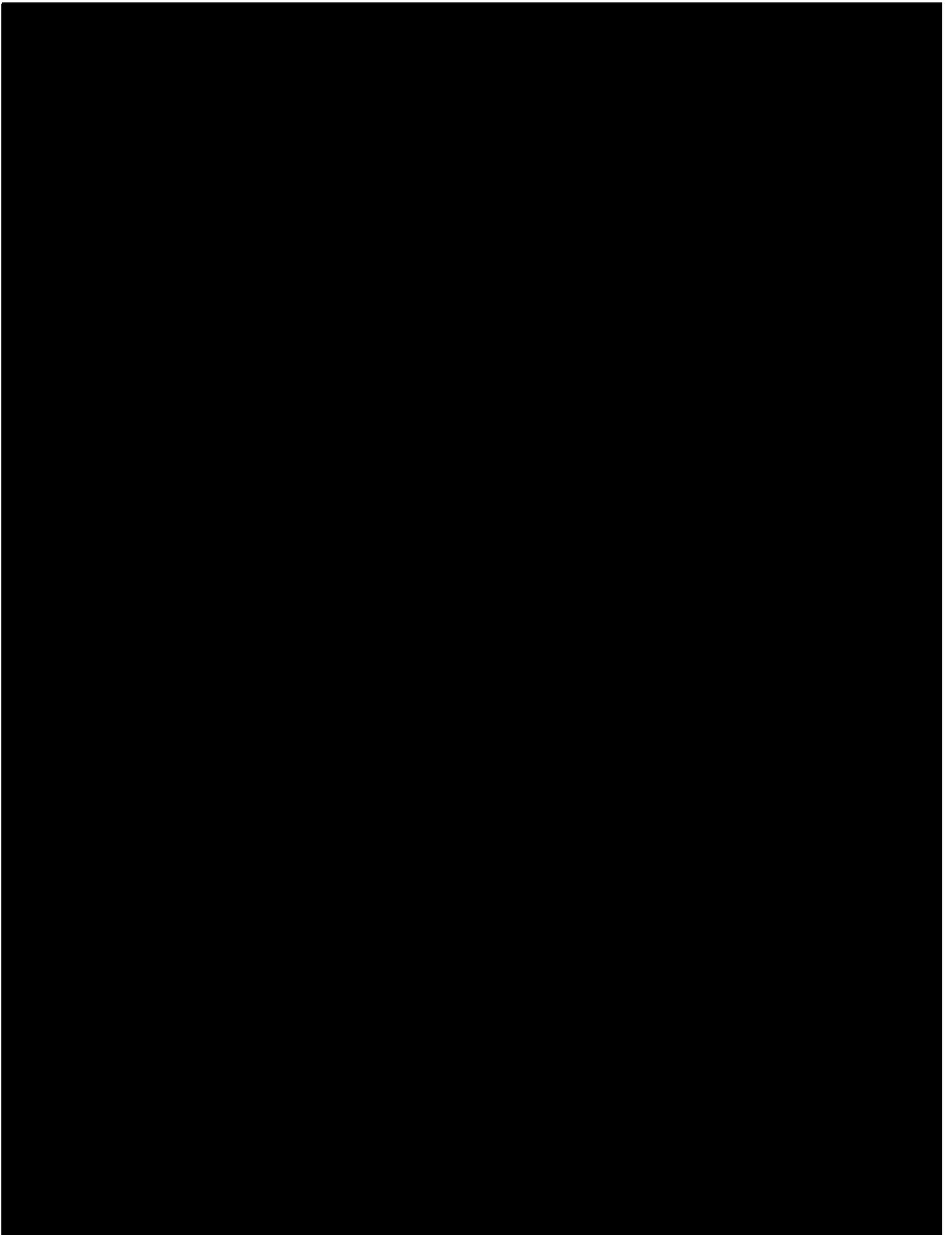
**EXHIBIT 10**

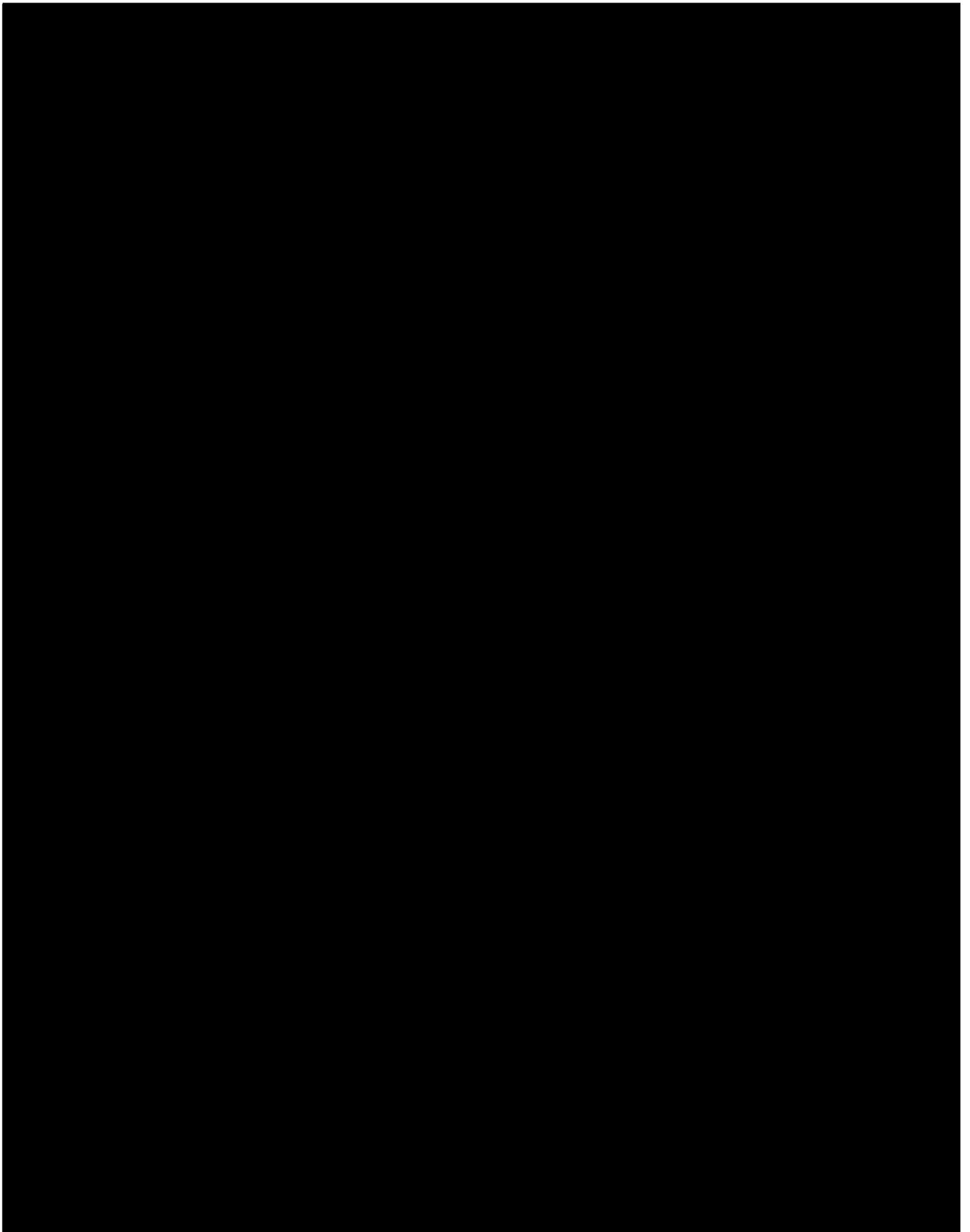


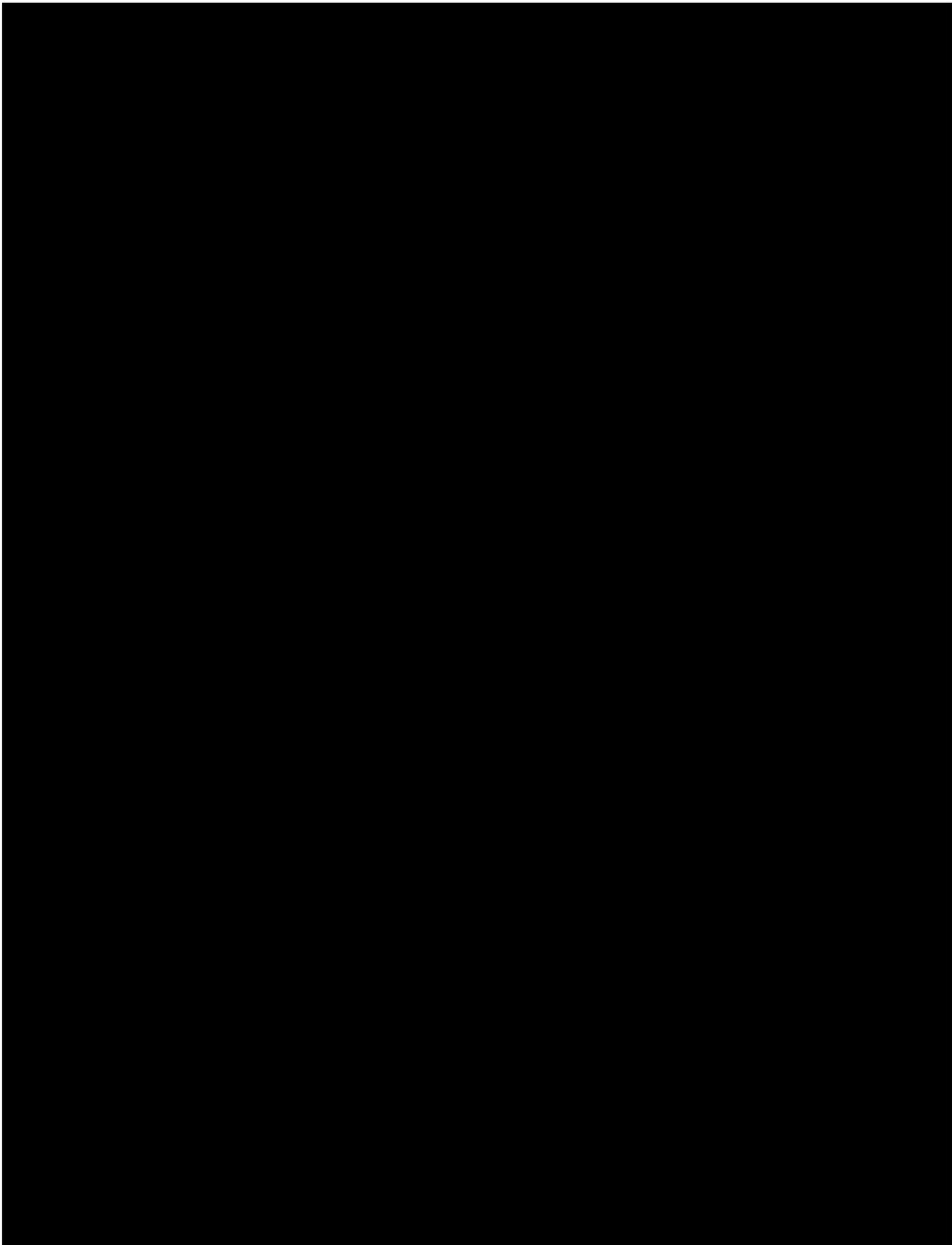


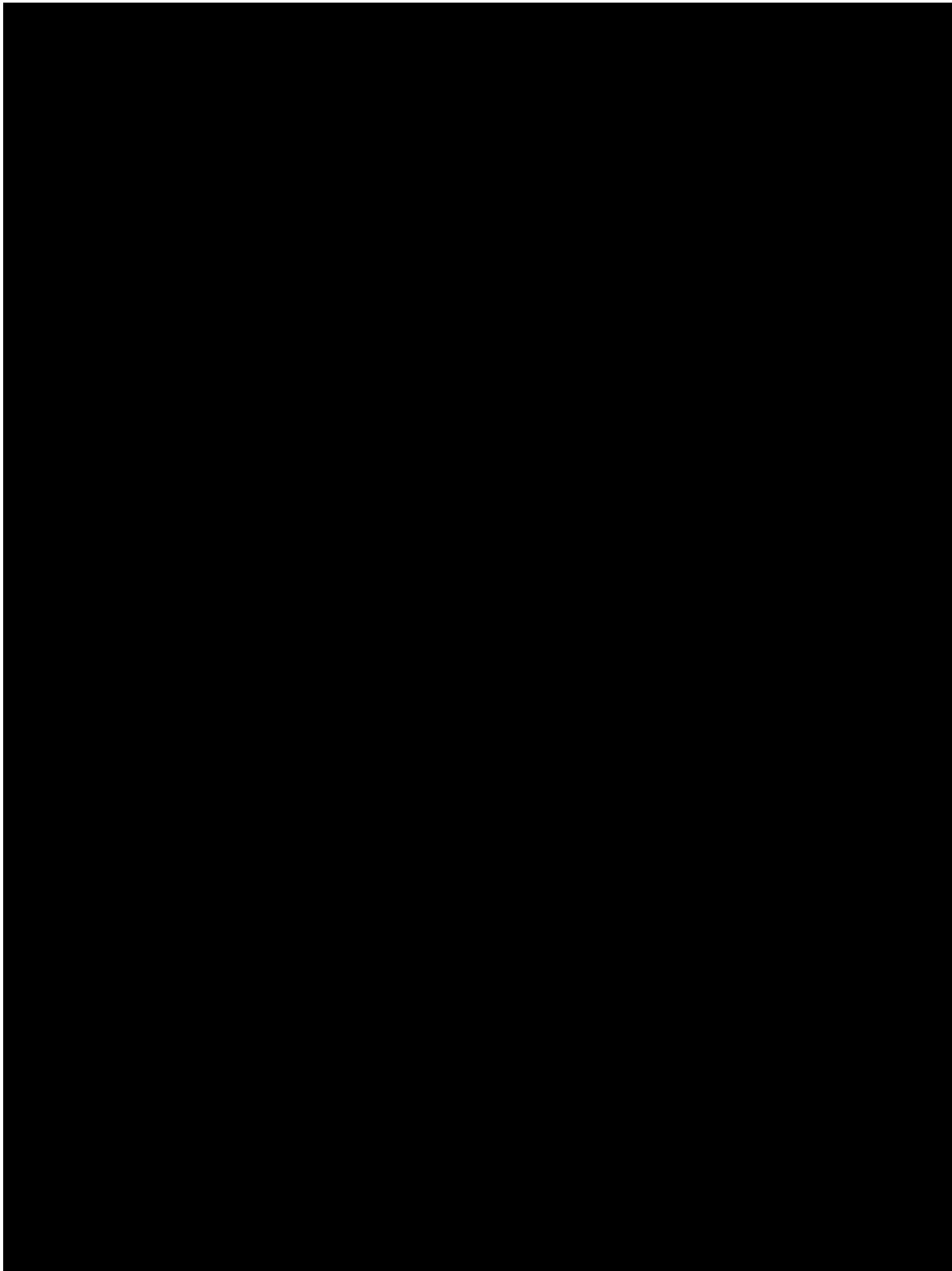


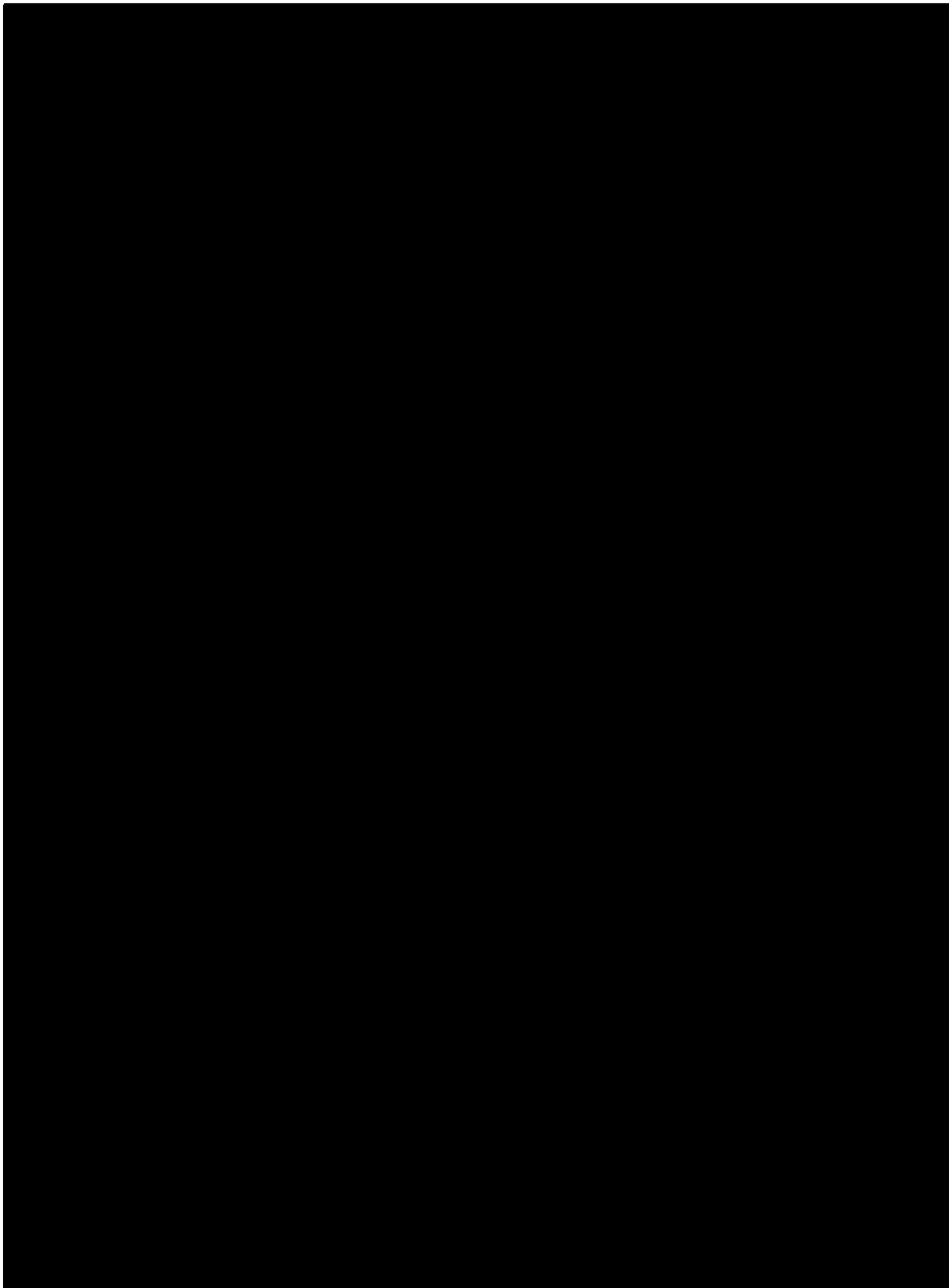


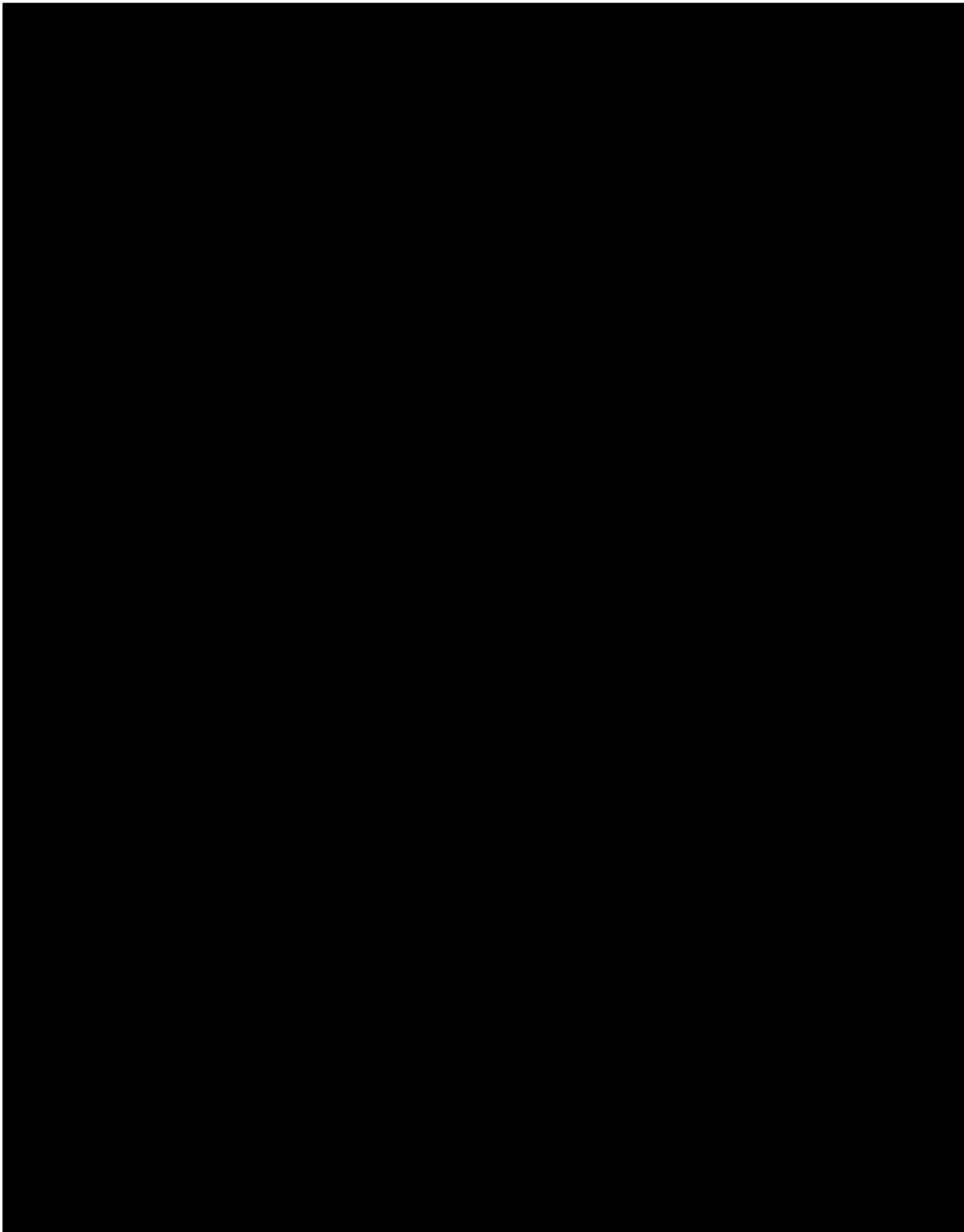


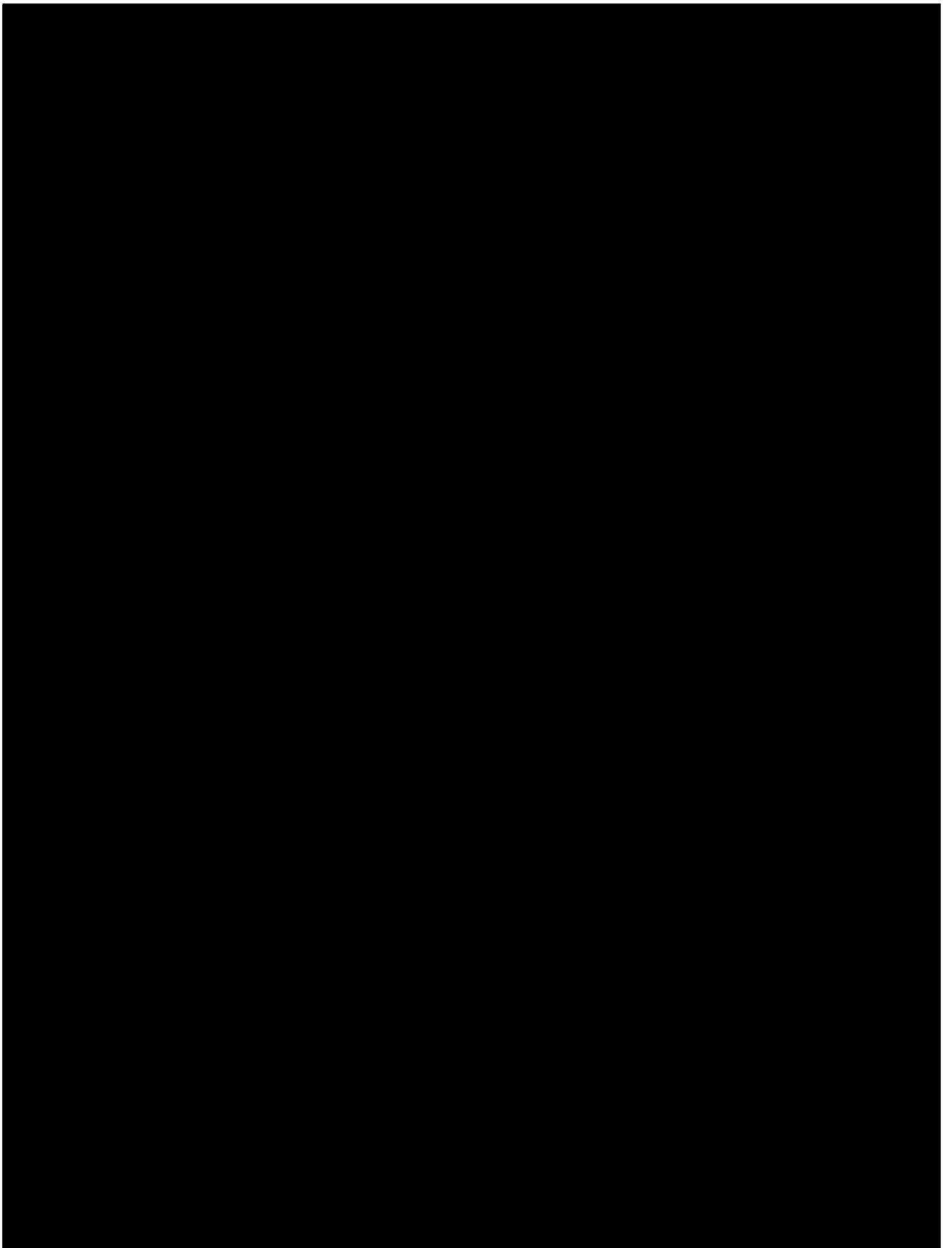


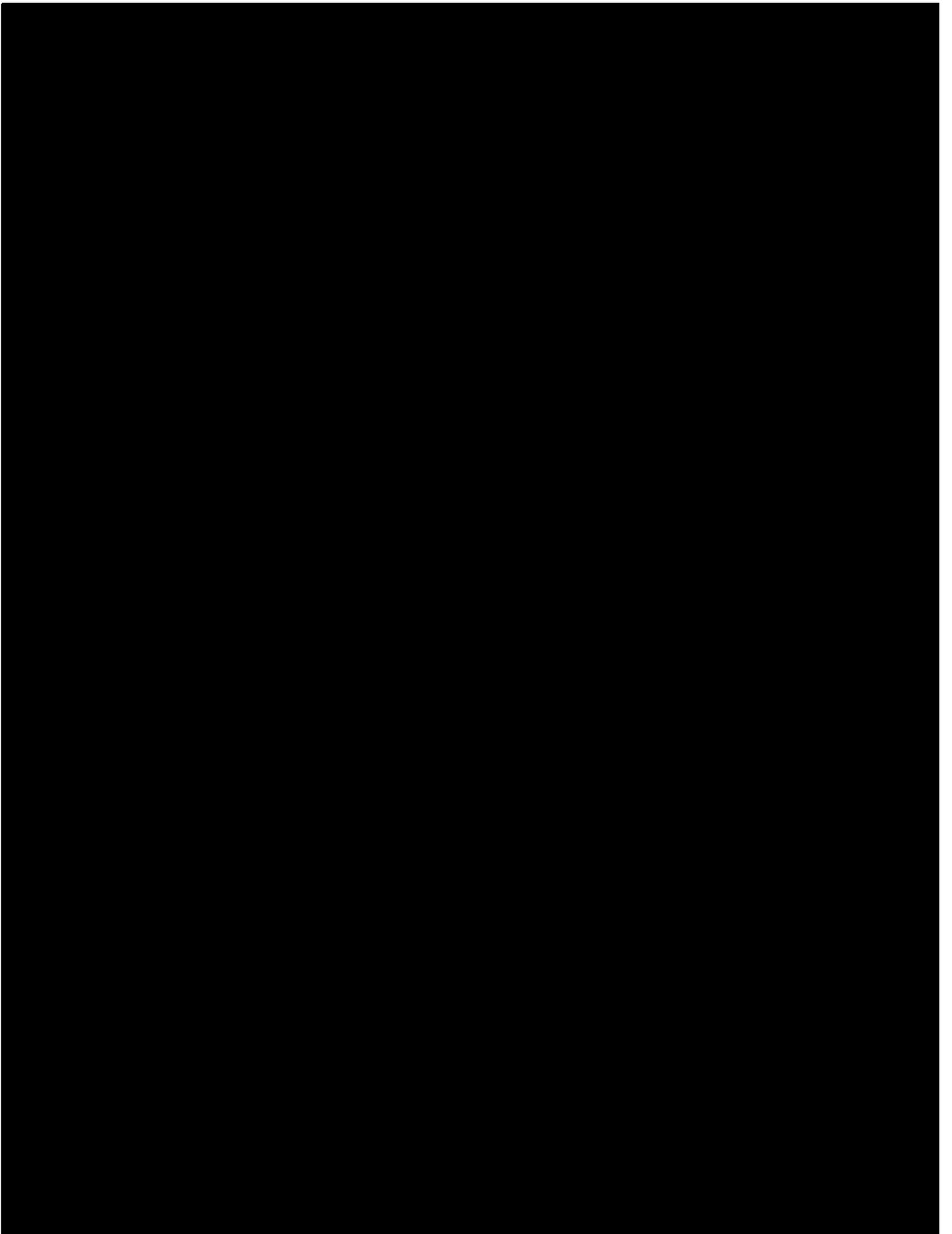


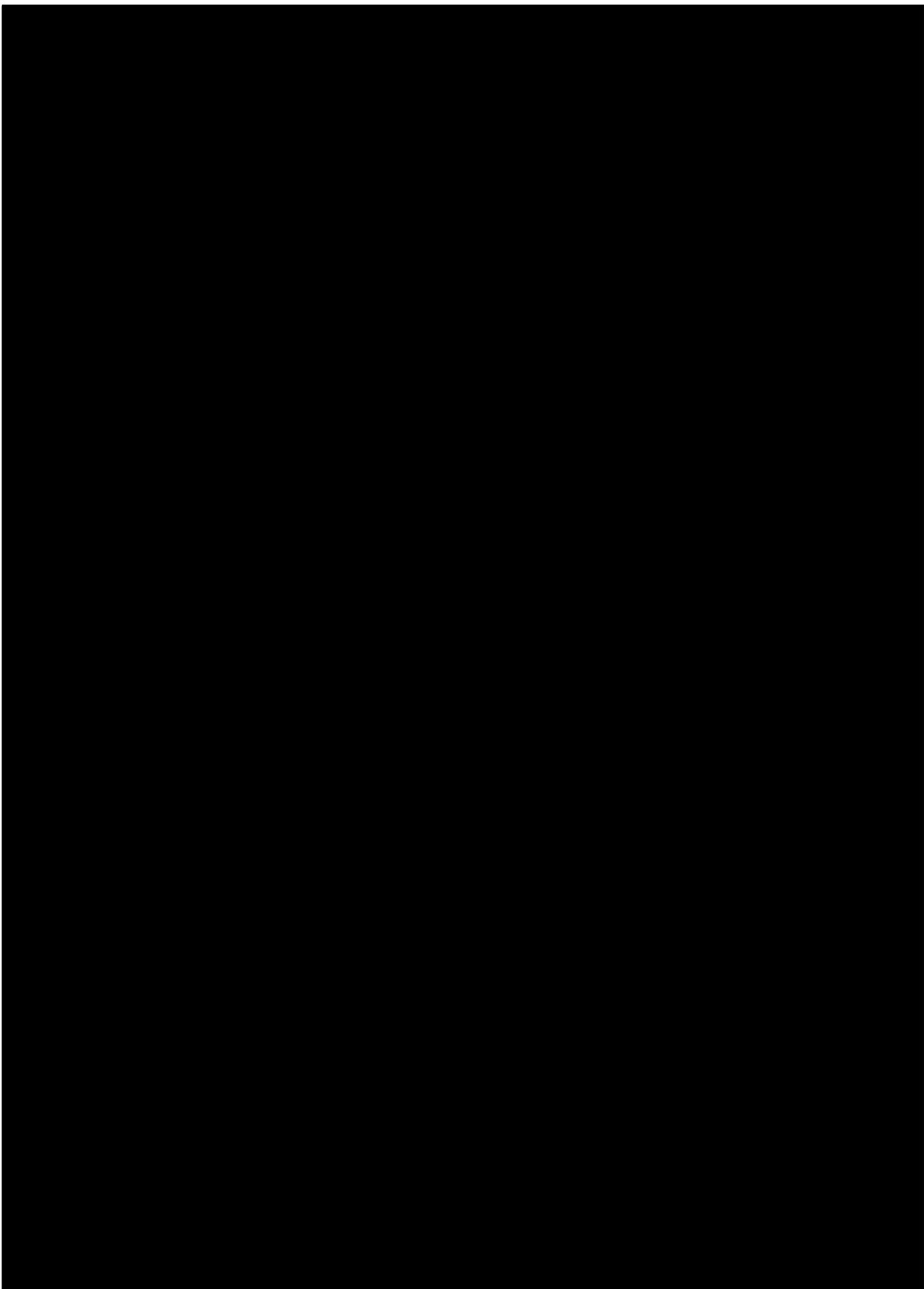


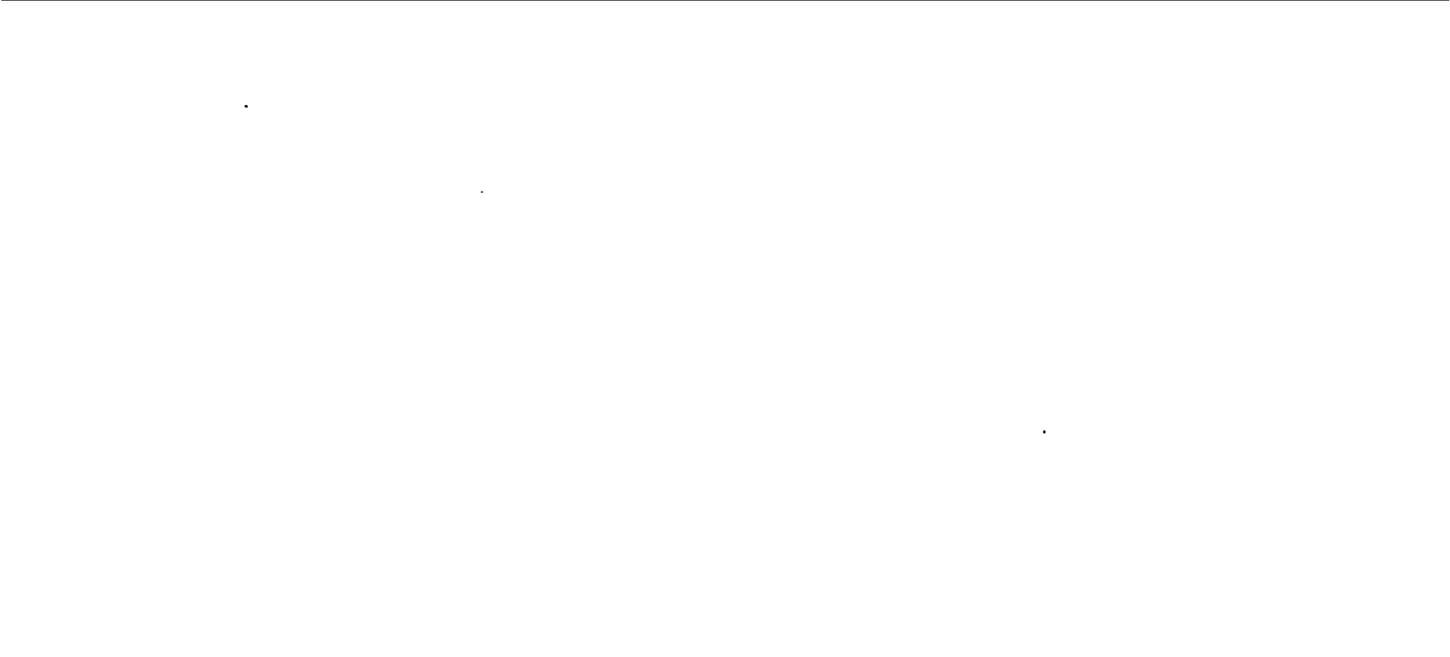
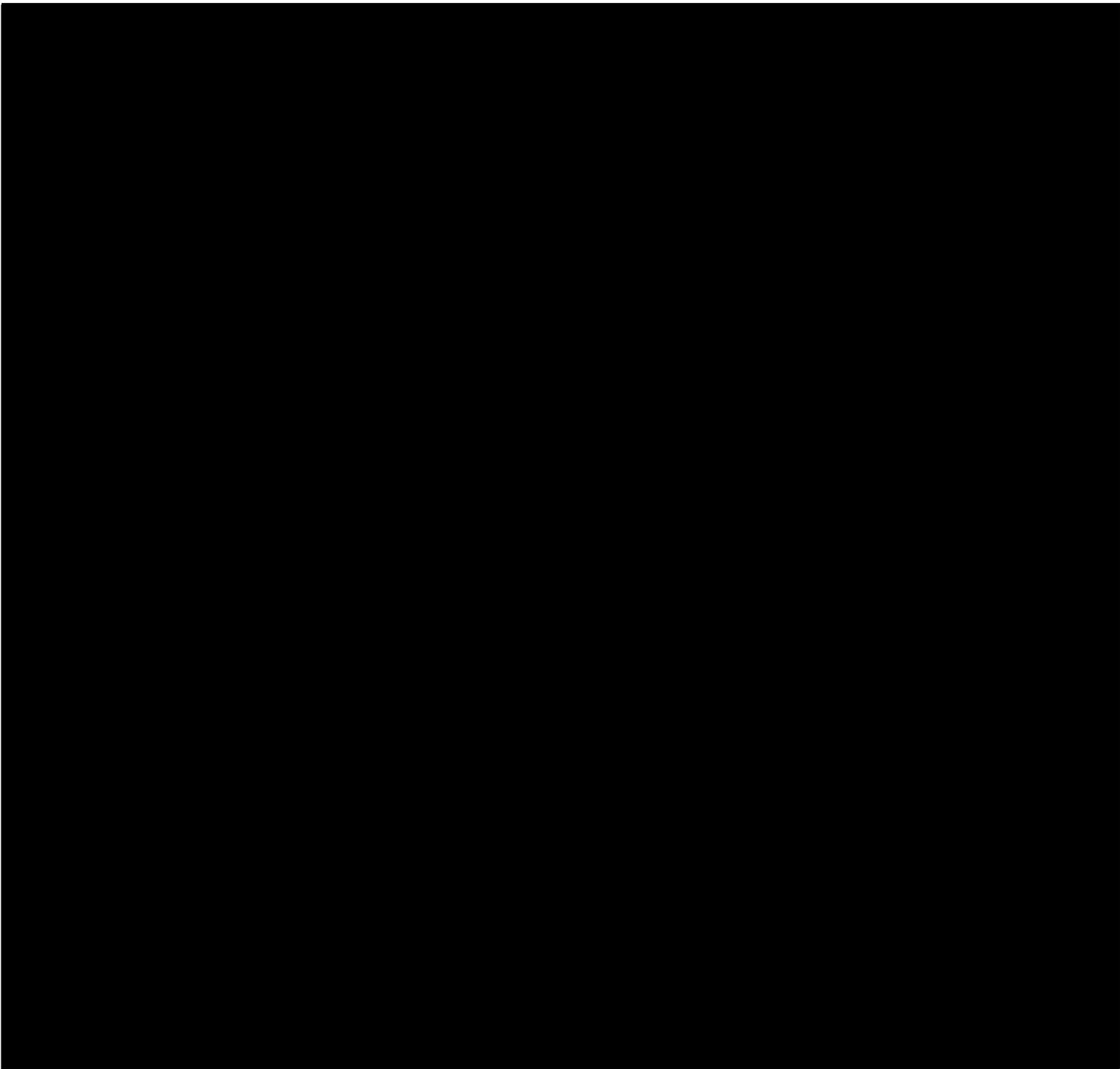












**EXHIBIT 11**

## Daily Requirements/Duties of a Board Worker for the City of Peoria's Early Voting Satellite Location

Primary: August 6, 2008 – August 29, 2008

General: October 6, 2008 – October 31, 2008

Please note the early voting site was open during summer months with temperatures ranging from 105-116 degrees for the primary and 95-107 degrees for the general. The temperatures directly impacted the execution of the tasks listed below.

### Setup and Take down:

1. Carry/setup/position/take down approximately 8 sandwich boards (weighing approx. 15 lbs. each, standing 4 ft. high and 3 ft. wide) around City Hall Campus (see map).
  - This task involved heavy lifting of awkward-shaped sandwich boards and carrying said boards an approximate 1 mile radius around the campus. **Most strenuous task.**
2. Carry/setup/position/take down numerous signs in addition to the sandwich boards around City Hall.
  - This task involved extensive walking, bending and reaching.
3. Carry and handle several supply boxes weighing up to approx. 35 lbs.
4. Carry and handle up to five ballot boxes weighing up to approx. 50 lbs. and are approx. 2 ft. wide and 1 ½ ft. high.
  - This task involved carrying full ballot boxes approx. ¼ mile.

### Miscellaneous:

1. Extensive computer work/typing/writing/reading/speaking:
  - This task involved constantly alternating from a sitting position to a standing position to a bending position while assisting voters.
2. Printing tasks involved constant standing with repetitive bending motions while assisting voters.
3. Escorting voters to their cars/providing directions.
  - This task involved moderate walking.
4. Rearrange furniture to accommodate traffic flow. This task involved moderate lifting and bending.
5. Assisting voters waiting in lines up to ½ mile long.
  - This task involved constant walking and standing.
6. Take down all early voting equipment on the last day.
  - This task involved extensive bending, reaching and heavy lifting.
7. Work hours ranged from 7:30 a.m. to 10:30 p.m.

**EXHIBIT 12**



**City of Peoria Municipal Campus**  
 8401 W. Monroe St., Peoria AZ 85345  
 Information: (623) 773-7000  
 www.peoriaaz.gov

**City Council Chamber** 8401 W. Monroe St.

**City Hall** 8401 W. Monroe St.

- First Floor
  - Information Counter
  - City Clerk (Passports)
  - Customer Service (Utility Billing & Setup)
  - Economic Development
  - Human Resources
  - Pine Conference Room
- Second Floor
  - Budget
  - City Attorney
- Third Floor
  - Mayor
  - City Council
  - City Manager
  - Communications & Public Affairs

**City Hall Annex** 8314 W. Cinnabar Ave.

- Purchasing
- Special Events

**Court** 10100 N. 83rd Ave.

**Development & Community Services** 9871 N. 85th Ave.

- First Floor
  - Community Services
  - Parks and Recreation
  - Community Development
  - Building Safety & Permits
  - Neighborhood Services (Code Compliance)
  - Planning & Zoning
  - Engineering
- Second Floor
  - Public Works
  - Utilities

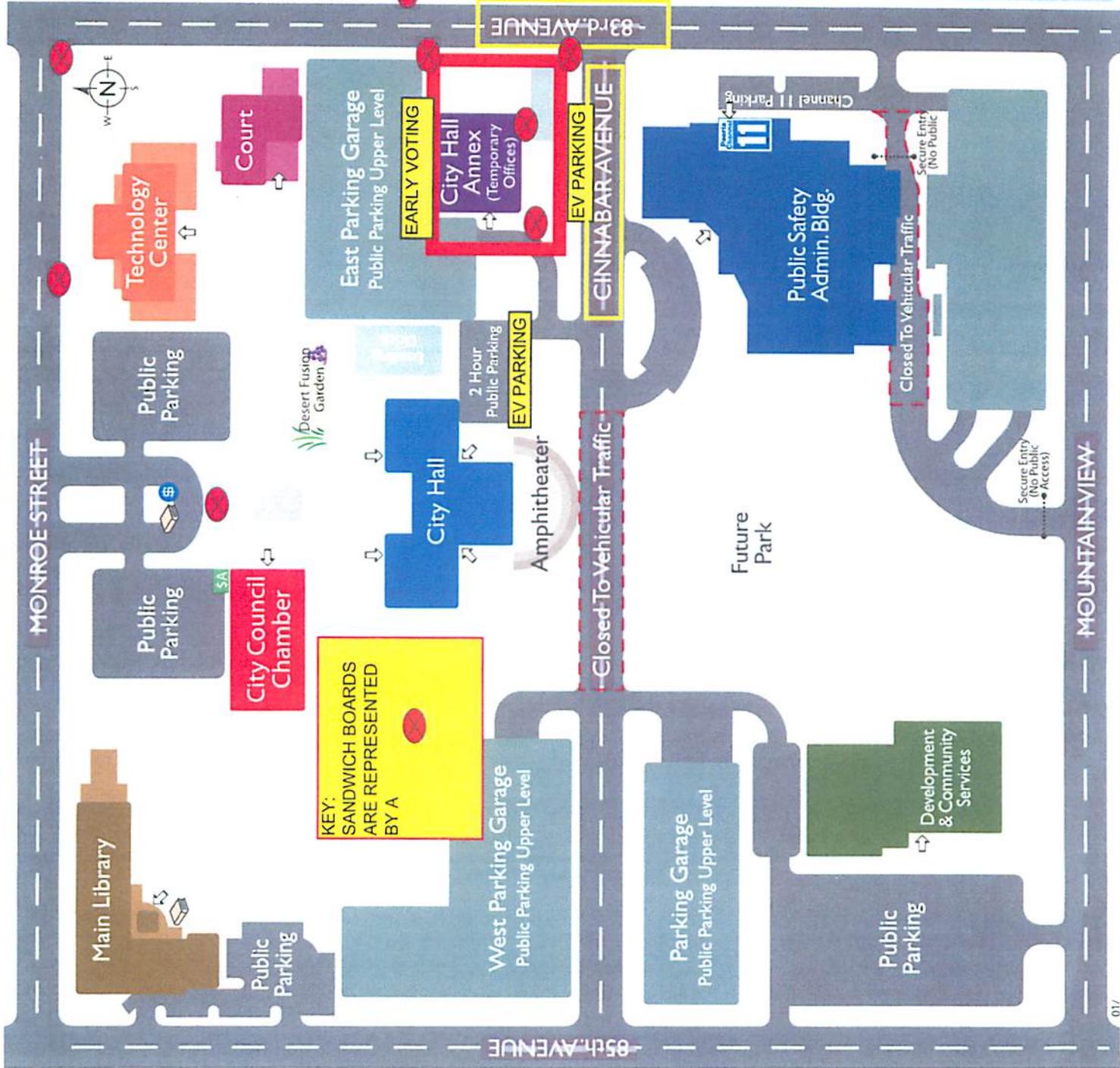
**Library** 8403 W. Monroe St.

**Public Safety Admin.** 8351 W. Cinnabar Ave.

- Police
- Fire Administration
- Peoria Channel 11
- Peoria Conference Room

**Technology Center** 8343 W. Monroe St.

- Information Technology



**EXHIBIT 13**

TO ALL APPLICANTS: The City of Peoria is an Affirmative Action/Equal Opportunity/ Reasonable Accommodation Employer. The information that you provide on this profile is used for statistical purposes in complying with record keeping requirements of the Federal Government to assure equal employment opportunity in the City's hiring practices. This profile will be filed separately from your application and will not be used to discriminate in any way in the employment process. Although completion of this profile is not mandatory, your assistance will help us to study and improve our recruitment policies. THANK YOU.

### CITY OF PEORIA APPLICANT PROFILE

TITLE OF POSITION APPLIED FOR: Board Worker

TODAY'S DATE: July 22, 2008



LAST NAME [REDACTED] FIRST NAME [REDACTED] INITIAL [REDACTED]

ADDRESS [REDACTED] CITY/STATE [REDACTED] ZIP [REDACTED]

GENDER: 1.  FEMALE 2.  MALE

AGE: [REDACTED]

Ethnic Group	Where did you hear about this vacancy?
(Please check all that apply and circle the category you consider to be your primary race/ethnicity)	(Please check only ONE of the options)
1. <input checked="" type="checkbox"/> White	1. <input type="checkbox"/> Peoria Website
2. <input type="checkbox"/> Hispanic/Latino	2. <input type="checkbox"/> Peoria Job Hotline
3. <input type="checkbox"/> Black/African American	3. <input type="checkbox"/> City Employee
4. <input type="checkbox"/> American Indian/ Alaska Native	4. <input type="checkbox"/> Walk-In
5. <input type="checkbox"/> Native Hawaiian/ Other Pacific Islander	5. <input type="checkbox"/> Newspaper: _____
6. <input type="checkbox"/> Asian	6. <input type="checkbox"/> Job Fair: _____
7. <input type="checkbox"/> Prefer not to specify	7. <input type="checkbox"/> Professional Publication or Web-site: _____
	8. <input checked="" type="checkbox"/> Other: <u>MCED - Janet</u>

#### Preference Points:

Some applicants may qualify for employment preference points in accordance with Arizona Revised Statue 38-492. Please refer to 'Preference Points Information' on the back page of this application to determine whether you qualify. If you determine that you meet the requirements for any of the listed categories, please check the appropriate option(s) below.

**Note: Appropriate supporting documentation is required within five working days from the closing date of the position you are applying for. Documentation may be submitted via fax at (623) 778-7149, U.S. Mail, or in person at the Human Resources Office, 8401 West Monroe Street, Peoria, AZ 85345. Please reference the Job Title and Job Posting number on your supporting documents.**

Veteran    Disabled Veteran    Spouse or Surviving Spouse of a Veteran    Person with a Disability

**EXHIBIT 14**

[REDACTED]

November 17, 2008

Ms. Mary Jo Kief, City Clerk  
City of Peoria  
8401 W. Monroe  
Peoria, Arizona 85345

On July 22, 2008, [REDACTED] and I completed paperwork and applications for "Election Board Worker" for the City Clerk. We were highly recommended by the Maricopa County Elections Department to the City of Peoria for Early Voting scheduled to begin August 4, 2008, because we both worked Early Voting in 2006 and were trained, experienced, and highly skilled at that job.

On [REDACTED] we both kept appointments with [REDACTED] for physicals the City required of us each as Election Supervisors. We were there over four hours from 2:05 pm until we finished after 6 pm.

Despite a failure to communicate, the physician who saw me cleared me for sedentary work.

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Please give me the name of the person who made the decision and tell me why the person hired in my place was older and more disabled than I. Please be specific.

Please forward to me the written Job Description for the job for which I applied, including its detailed qualifications, requirements, and duties, especially those which require I "squat."

Explain why the City of Peoria was not able to accommodate my alleged handicap when the doctor reported I was "only capable" of "squatting" 45%, especially since every other employer I ever had provided a chair and desk for computer work and rest rooms rather than a space behind a tree in the back of the building to "squat" to relieve one's self.

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Further, if I squatted the way the doctor asked me to with my knees in front of me, placing my full weight at the time of 180 lbs on my knees without using a chair to support part of my weight, I could have damaged my knees so severely I may have required surgery, which may not have repaired my knees to 100% again. His request for me to not squat correctly was very dangerous.

I was also shocked he asked me to "squat" while wearing a hospital type exam gown and just my under pants. I was very self conscious about keeping my knees together to keep the hem of the gown from rising over my knees. The only reason I tried to comply and did not refuse was that I did not want the City of Peoria to think I was uncooperative.

If the City of Peoria has a policy to not hire workers over a certain age, if handicapped, or for some other reason, regardless if they are qualified to do the job, please inform me in writing and supply me with a detailed copy of the policy, who approved it, and when.

Please tell me who made the final decision to not hire me and what they noted on my application and in my file as the reason for their decision. Please supply me with an unredacted photocopy of my application and any notations made about me in my file that is part of my permanent record. I have a right to know what was written about me.

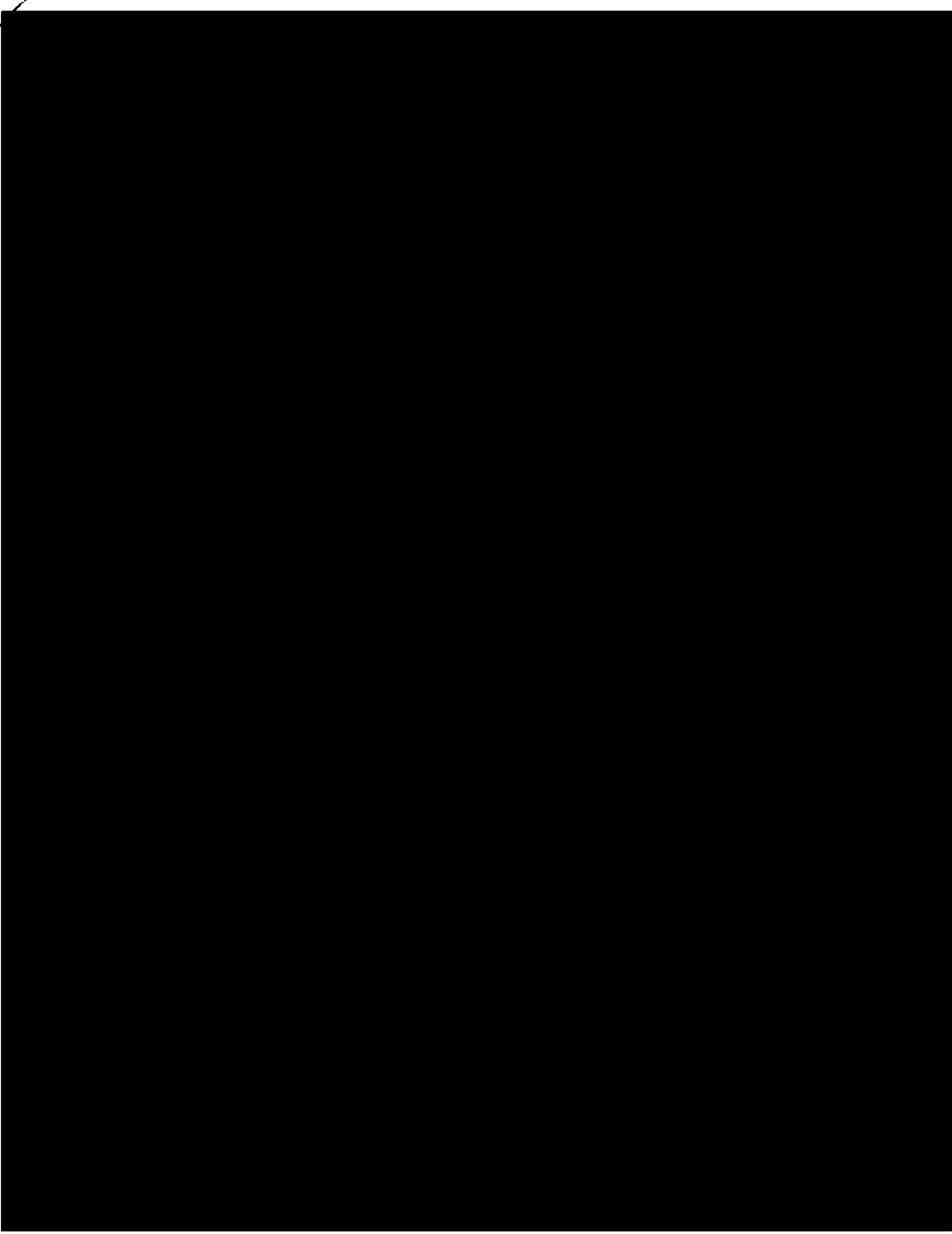
I also have a legal right to a complete unredacted copy of any physical examination done of me regardless of who paid for it. After all, it was my body I gave permission to examine and I who signed a release to allow the City of Peoria to receive a copy of it. If there is a law that allows you to refuse to give me a complete copy of my own physical, please provide me with a copy of it.

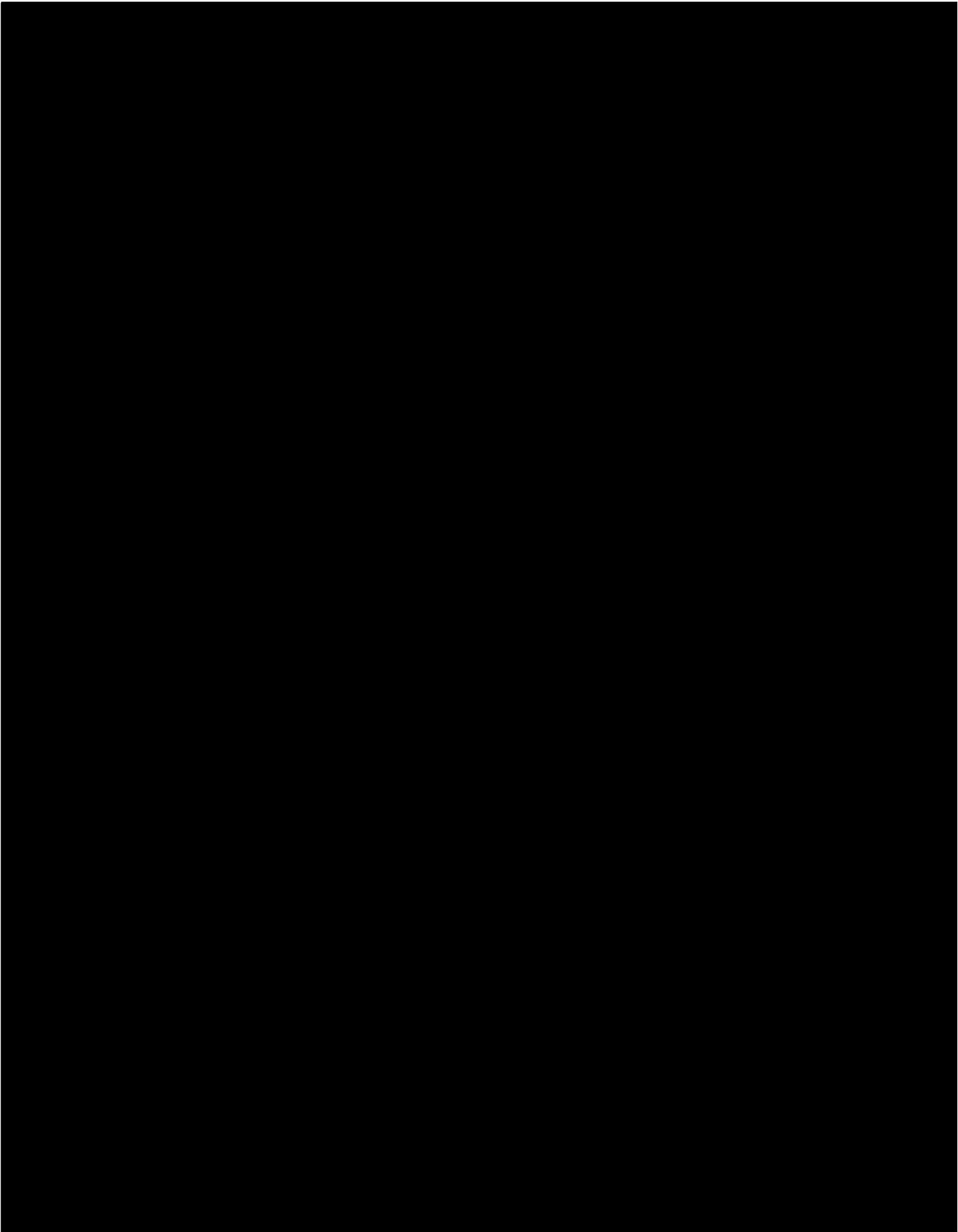
Please supply me the name of the person who has refused to allow the doctor's office to send me a copy and please give me the specific reason or reasons they refused.

Thank you. \

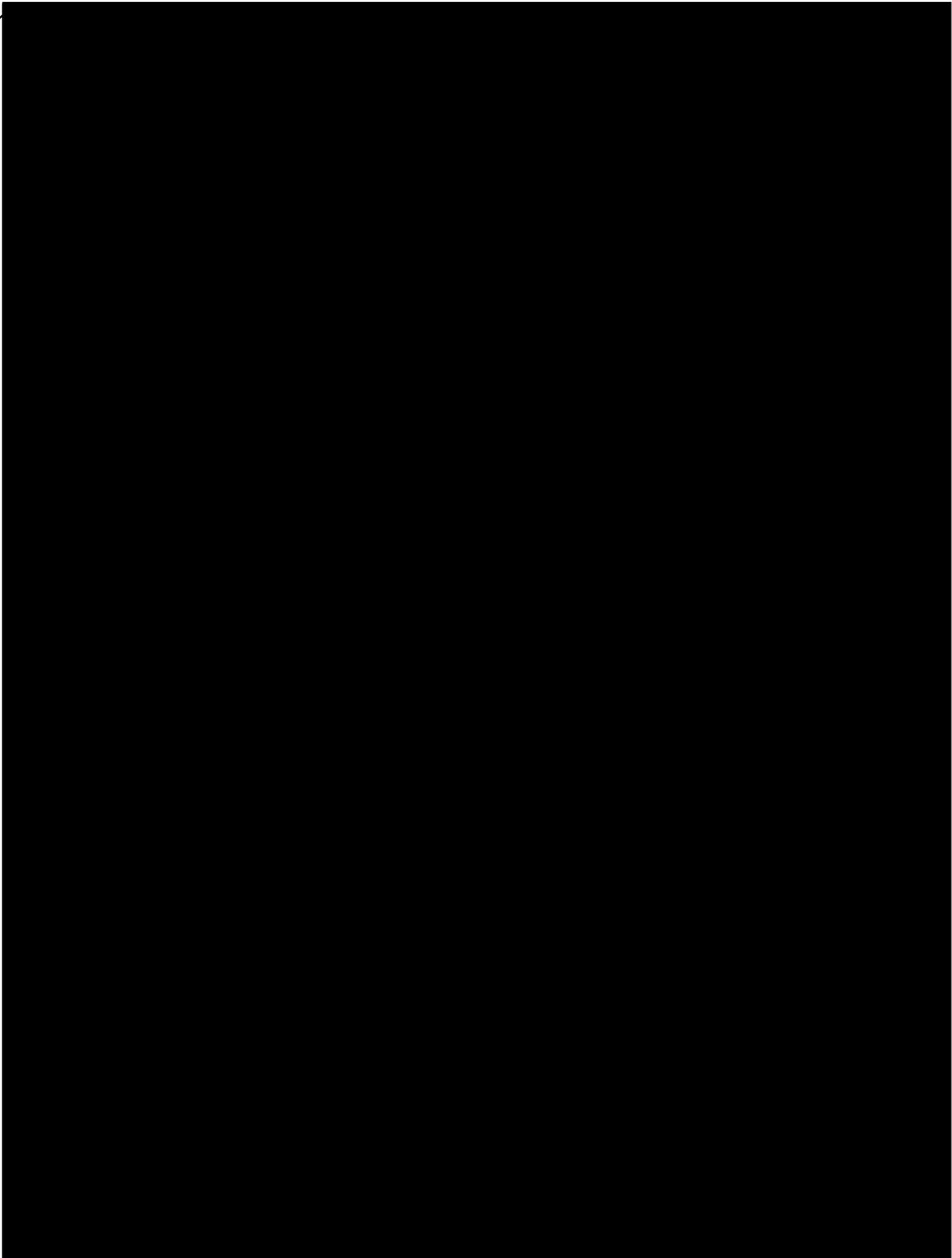
██████████  
██████████, Applicant, 2008 Early Voting Board Worker

**EXHIBIT 15**





[Redacted]



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: [Redacted]

From: Phoenix District Office  
3300 North Central Ave  
Suite 690  
Phoenix, AZ 85012

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
540-2009-02921	Jeremy A. Yubeta, Supervisory Investigator	(602) 640-5028

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission  
*Rayford O. Irvin*

Rayford O. Irvin,  
Acting District Director

SEP 23 2009

(Date Mailed)

Enclosures(s)

cc: Cheryl A Bowsell  
Assistant City Attorney  
CITY OF PEORIA  
8401 W. Monroe Street  
Peoria, AZ 85345

RECEIVED

SEP 24 2009

OFFICE OF THE CITY ATTORNEY  
PEORIA, ARIZONA

## DISMISSAL AND NOTICE OF RIGHTS

To:

From: Phoenix District Office  
3300 North Central Ave  
Suite 690  
Phoenix, AZ 85012

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

540-2009-01435

Janis L. Richardson,  
Investigator

(602) 640-5008

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

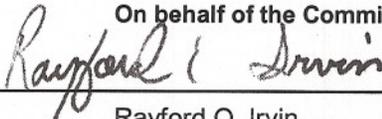
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: **This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)**

Equal Pay Act (EPA): **EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Rayford O. Irvin,  
Acting District Director

SEP 30 2009

(Date Mailed)

Enclosures(s)

cc: Cheryl Boswell – City Attorney  
CITY OF PEORIA  
8401 W. Monroe Street  
Peoria, AZ 85345

RECEIVED

OCT 1 2009

OFFICE OF THE CITY ATTORNEY  
PEORIA, ARIZONA

51.27(p)



U.S. Department of Justice

Civil Rights Division

JDR:RPL:HCL:jdh  
DJ 166-012-3  
2001-3881

Voting Section - NWB.  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

RECEIVED  
FEB 05 2002

OFFICE OF THE CITY ATTORNEY  
PEORIA, ARIZONA

January 31, 2002

Stephen M. Kemp, Esq.  
City Attorney  
8401 West Monroe Street  
Peoria, Arizona 85345

Dear Mr. Kemp:

This refers to the 2001 redistricting plan for the City of Peoria in Maricopa and Yavapai Counties, Arizona, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 5, 2001; supplemental information was received through January 16, 2002.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

Joseph D. Rich  
Chief, Voting Section

Enclosure



## City of Peoria

### Office of the City Attorney

8401 W. Monroe Street, Peoria Arizona 85345

Phone: 623-773-7330

Civil/Risk Fax: 623-773-7043

Criminal/Victim's Assistance Fax: 623-773-7323

E-Mail: [cityattorney@peoriaaz.com](mailto:cityattorney@peoriaaz.com)

November 29, 2001

### VIA OVERNIGHT MAIL

Chief, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
Room 7254 – NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

**Re: Submission Under Section 5 of the Voting Rights Act  
for the City of Peoria, Arizona Redistricting**

Dear Sir or Madam:

Please find enclosed the submission of the City of Peoria, for its City Council Redistricting based on the 2000 Census. A Table of Contents of the Appendixes and relevant Appendixes are enclosed. This submission to the Department of Justice is being made for the pre-clearance under Section 5 of the Voting Rights Act, as amended. For purposes of your analysis, I have outlined the relevant Procedure and Applicable Statutes, City Charter, and City Code provisions below.

The City's Charter requires the City to redistrict in the event a mid-decade census is taken. In 2000, a decennial census was performed by the U.S. Census in Maricopa County, Arizona and released to the County on April 30, 2001. Since the 1995 Census, the City has experienced substantial growth and has annexed several large areas to the north of the City.

As a result of the 2000 Census, the City began a redistricting process for the 2003 elections. The City retained National Demographics Corporation to assist the City in this process. The final report prepared by National Demographics contains a detailed outline of the process used by the City in the redistricting. Instead of repeating the detailed report, I will proceed to an analysis of the City's proposed District Boundaries.

In drafting the district Boundaries, the City determined that the U.S. Bureau of the Census made an error and included 23 residents of the City of Glendale, Arizona, within the City of Peoria. This Census Tract is located at the southeast corner of Olive Avenue and 71<sup>st</sup> Avenue. The population figures are as follows:

**Submission Under Section 5 of the Voting Rights Act**

U.S. Department of Justice

November 29, 2001

Page 2

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21 White  
2 Hispanic  
0 African American  
0 Asian American  
0 Other

Removal of this area outside the City does not impact the minority percentage of population in the City.

The Map enclosed corresponds to Ordinance 01-156, dated September 18, 2001, which designates the new boundaries for the City Council Districts. The population breakdown of the districts is as follows:

<b>DISTRICT NAME</b>	<b>DISTRICT POPULATION (2000 Census)</b>
ACACIA	17,229
IRONWOOD	18,199
MESQUITE	16,482
PALO VERDE	19,187
PINE	18,418
WILLOW	19,147

The proposed districts vary in population by approximately -9% to 6% or a total of 15% from the mean population of 18,114. This variance can be explained due to the following:

1. The plan's attempt to maintain a strong minority representation in the City's Acacia District.
2. The plan's attempt to compensate for the rapid Growth in the Mesquite District.

Approximately 70% of the City's population growth from 1995 – 2000 occurred in the Mesquite District. Prior to the redistricting approximately 1/3 of the City's population resided in the Mesquite District. Currently, there are five Master Planned Communities in various stages of planning and development that are projected to add approximately 100,000 new residents during the next 20 years. Based on available lots in the City, it is foreseeable that the percentage of population growth in Mesquite as compared to the total will increase. The under population of Mesquite also meets the criteria established by the City for redistricting.

**Submission Under Section 5 of the Voting Rights Act**

U.S. Department of Justice

November 29, 2001

Page 3

The City attempted to include minority concerns in the proposed redistricting plan. A breakdown of the City's population by racial and ethnic group is set forth below:

YEAR	TOTAL	WHITE	AFRICAN AMERICAN	ASIAN	HISPANIC	AMERICAN INDIAN	OTHER
2000	100%	77.89%	2.94%	2.23%	15.39%	0.83%	0.71%

A breakdown of the racial and ethnic population under the current districts and the proposed districts is set forth below:

**DEMOGRAPHIC ANALYSIS OF CURRENT DISTRICTS****Based on 2000 Census**

CURRENT DISTRICTS	TOTAL	WHITE	AFRICAN AMERICAN	ASIAN	HISPANIC	AMERICAN INDIAN	OTHER
MESQUITE	29,500	26,259	523	522	1,936	161	139
ACACIA	15,282	8,214	623	242	5,863	185	155
IRONWOOD	17,344	14,350	550	368	1,823	146	107
PALO VERDE	13,345	10,312	446	381	1,972	148	86
PINE	17,643	13,317	644	424	2,978	138	142
WILLOW	15,531	12,209	414	491	2,151	124	142

**DEMOGRAPHIC ANALYSIS OF PROPOSED DISTRICTS****From Adopted Plan – Concept 1**

PROPOSED DISTRICTS	TOTAL	WHITE	AFRICAN AMERICAN	ASIAN	HISPANIC	AMERICAN INDIAN	OTHER
MESQUITE	16,482	14,472	322	343	1,176	84	85
ACACIA	17,229	9,494	652	284	6,384	238	177
IRONWOOD	18,199	16,205	368	352	1,102	80	92
PALO VERDE	19,187	15,032	720	473	2,656	192	114
PINE	18,418	14,112	656	423	2,951	141	135
WILLOW	19,147	15,325	482	553	2,452	167	168

## **Submission Under Section 5 of the Voting Rights Act**

U.S. Department of Justice

November 29, 2001

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You will note that the Acacia District contains a substantial minority representation. The current Acacia District according to the 2000 Census is 38.37% Hispanic and 4.08% African American for a total of 42.45% minority population. The proposed Acacia District will be 37.05% Hispanic and 3.78% African American for a total of 40.83% minority.

For purposes of retrogression, the bench mark as defined in the U.S. Department of Justice Guidance Concerning Redistricting and Retrogression is the 1995 Census.<sup>1</sup> In 1995, the Acacia District population included 40.1% Hispanic and 2.78% African American populations. Recognizing that retrogression would occur; the City has slightly under-populated the Acacia District in order to maintain a higher minority population percentage.

Additionally, the City has attempted to encourage minority voter participation by modifying its election dates to coincide with the Arizona statewide primary and general election dates, which have higher voter turnouts and the likelihood of a number of minority candidates competing for different offices.

An analysis of the City's overall population growth indicates two factors causing the retrogression. First, as Hispanic Income has risen, there are a number of moderately priced housing developments throughout the City that are affordable. The result is a dispersal of the Hispanic Population into other districts. Second, much of the growth in the City has occurred in the areas North of Bell Road. Much of this growth has included higher end master planned communities such as Fletcher Heights and Terramar. Unfortunately, high housing prices in these communities have made them less affordable to residents of minority communities with lower income levels.

The City considered a number of Citizen plans and consultant plans to mitigate the retrogression. However these plans generally resulted in more retrogression in the Acacia District and created Districts that were not compact and did not follow major roadways or natural features as boundaries. Further there is not any other identifiable minority community in the City that could be linked into the Acacia District to minimize retrogression.

At the same time, it should be noted that the City has not evidenced block voting that interferes with the election of minority candidates. A review of the City's history from 1954 to the present indicates the following minority individuals have been elected, with all candidates prior to 1991 being elected at large.

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<sup>1</sup> See, Federal Register, v. 66, No. 12, January 18, 2001, pp. 5412-5414.

**Submission Under Section 5 of the Voting Rights Act**

U.S. Department of Justice

November 29, 2001

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Manuel Leyva - Hispanic (At Large) 1954 – 1979

Edmund Tang - Asian American (At Large) 1955 – 1985

James Montoya - Hispanic (At Large) 1967 – 1969

Frank Moreno - Hispanic (At Large) 1971 – 1977

Johnny Osuna - Hispanic (At Large) 1980 – 1983; 1985 - 1989  
(Acacia) 1991 – 1997

David Murillo - Hispanic (At Large) 1981 – 1985

James Saunders - African American (At Large) 1985 – 1991

Hortensia Gutierrez - Hispanic (Acacia) 1997 – 1999

Michael Patino - Hispanic (Acacia) 1999 – 2003

Finally, the City widely advertised the redistricting process. From May – August, 2001, six public hearings were held before the City Clerk and/or City Council to provide input on the plan. Citizens submitted 23 proposed plans to the City for consideration. Minority advocacy groups including but not limited to the NAACP, LULAC, Southwest Voter Registration and others were notified of the process and invited to comment.

The City would submit that the proposed redistricting maintains minority voting representation in the existing Acacia District, while avoiding violation of the other traditional community goals followed by the City in the Redistricting Process. The proposed redistricting meets several important community goals as outlined in the Final Report of National Demographics. These goals include:

1. Districts must be equal in population;
2. A strong minority district is preserved;
3. Geography and community are respected;
4. Existing council boundary lines are followed to the extent possible.

It is the City's position that this plan meets these community goals, while complying with the provisions of the Voting Rights Act as amended.

**Submission Under Section 5 of the Voting Rights Act**

U.S. Department of Justice

November 29, 2001

Page 6

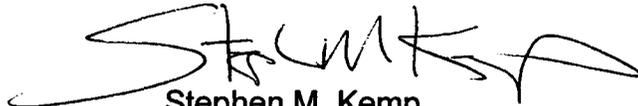
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Under the City's Charter and Ordinances, the first City Council Election under this plan is scheduled for March 11, 2003. Under Arizona Law, petitions for nomination may be circulated commencing on December 11, 2002. For those districts not holding an election in 2003, the plan will be used for the 2005 election.

In conclusion, the City would submit that this proposed districting plan meets the requirements of the Voting Rights Act and applicable case law by protecting minority rights, while providing for equal representation. Therefore, the City of Peoria would request that the Department of Justice review the proposed redistricting submission for preclearance under Section 5 of the Voting Rights Act. If you should need any additional information, please contact the undersigned.

Sincerely,

**OFFICE OF THE CITY ATTORNEY  
CITY OF PEORIA**



Stephen M. Kemp  
City Attorney

SMK/tlr

Encl.

cc: Janice L. Graziano, City Clerk

**CITY OF PEORIA, ARIZONA  
RE-DISTRICTING SUBMISSION  
1996-2001**

Attached is:

**Pursuant to 28 CFR 51.26**

51-26(3) Justice Department approval of change in polling locations, 2000

**Pursuant to 28 CFR 51.27**

51-27(a) CC 82-1R, Proposed Ordinance Amending Chapter 8 of the Peoria City Code (1992) by Amending Section 8-5 Pertaining to Council Districts September 18, 2001

Ordinance 01-156, Ordinance Amending Chapter 8 of the Peoria City Code (1992) by Amending Section 8-5 Pertaining to Council Districts September 18, 2001

Call and Notice of Elections

51-27(b) Ordinance 96-91, 97-05, 99-109, 00-119, 01-156, re City Code Chapter 8 – Elections

51-27(m) Charter – section regarding reason for re-districting

**Pursuant to 28 CF4 51.28**

51-28(a) Final Report – Redistricting Process – October 12, 2001

51-28(b)(1)(2)(5) County Precinct/District Boundaries/Polling Places 2000

51-28(b)(1) Official Election District Boundary Line Maps – 2000

51-28(b)(6) Voter Registration, Locations of Forms – Peoria

51-28(c) Ordinances 95-05, 96-05, 96-28, 97-07, 97-08, 97-15, 97-17, 97-24, 98-03, 98-09, 98-30, 99-17, 99-26, 99-29, 99-30, 00-24, 00-122, 00-124, 00-132, 01-07, 01-144 Annexations, Including Rights-of-Way, Ordinances 97-12, 00-18, 01-04, 01-13.

- 51-28(d)(1)(3)(4)(5) Canvas of Elections – Council Minutes 1996-2001  
Resolutions 96-59, 96-69, 96-70, 96-103, 96-113, 96-114, 96-115,  
96-116, 96-117, 96-118, 96-131, 96-137, 97-01, 97-30, 97-121, 98-  
59, 98-60, 98-61, 98-62, 98-142, 98-149, 99-53, 99-92, 99-184, 00-  
62, 00-117, 00-146, 01-44, 01-156
- 51-28(f) Council Meeting Public Hearings
- 51-28(f)(1) Additional Mailing List  
Publicity
- 51-28(f)(2) Affidavits of Publication re Districting Public Meetings and  
Ordinance 01-156
- 51-28(f)(5) Citizen Kits – Submissions by Citizens
- 51-28(g) Public Notice, re: Submission
- 51-28(h) Minority Contact List with Spanish Version of Publicity Pamphlets

**CITY OF PEORIA, ARIZONA  
ADDITIONAL SUBMISSIONS REQUIRED  
STATEMENT OF UNAVAILABILITY  
AND/OR LOCATION OF INFORMATION**

**28 CFR**

- 51-28(a)(2) Number of Registered Voters in affected area by race and language is unavailable. Statement of race and language is not a voter registration requirement.
- 51-28(a)(3) Total and voting age of population in affected area information contained in Preliminary and Final Reports from National Demographics.
- 51-28(b)(3) The location of racial and language minority groups is documented in the Preliminary and Final Reports from National Demographics.
- 51-28(b)(4) Natural boundaries and geographical features information contained in the Preliminary Report from National Demographics, as furnished by Chad Daines, Senior Planner, Community Development Department.
- 51-28(c)(3) In the past, City Attorney Certification, and pre-clearance letters, under the Voting Rights Act, from the Department of Justice, Attorney General, Washington, D.C.; and the State Attorney General have always been the final documents received in the City's annexation process. These documents were filed with the annexation ordinance that was being pre-cleared.
- 51-28(d)(6) The number of registered voters by race and language group is not part of the information required when registering to vote in Maricopa County. Information not available.