

**CITY OF PHOENIX
CITY COUNCIL MEETING
PUBLIC WORKS OFFICE
1000 S. "B" STREET
MONDAY, JANUARY 4, 2015
6:30 P.M.**

No Executive Session Scheduled.

- 6:30 p.m. **1) Call to order/Roll call**
- 6:31 p.m. **2) Pledge of Allegiance**
- 6:33 p.m. **3) Swear in Council under New City Charter**
- 6:38 p.m. **4) Mayor's Comments**
- 6:43 p.m. **5) Citizens Comments:** of any matter not on the agenda, with each speaker allowed three minutes unless Presiding Officer extends time
Note: Comments on agenda items will be allowed when these items come before Council
(Persons wishing to address Council on any matter are encouraged to do so. Please sign up, and if applicable, indicate the agenda item you want to discuss. When your name is called, step up to the podium, state your name and address for the record and limit your comments to the time allowed by the Presiding Officer. In accordance with state law, copies of the complete recording of this meeting will be available at City Hall. If you are hearing impaired and need accommodation, please give 48 hours prior notice to City Hall).
- 6:53 p.m. **6) Updates/Reports:**
a) PHURA
b) Parks Commission
- 7:05 p.m. **7) Presentations:**
- 7:05 p.m. **8) Public Hearing(s)**
- 7:05 p.m. **9) Ordinances, including reading and/or adoption**
Second Reading and Public Hearing of an Ordinance Amending Chapter 2.28 of the Phoenix Municipal Code
- 7:15 p.m. **10) Consent Calendar:**
a) November 2015 Financial Report
- 7:20 p.m. **11) Unfinished Business:**
a) Approve Proposal with Marquess to Construct a Capital Improvement Plan
b) Approve Proposal with Marquess to Prepare a Construction Design and Cost Analysis for Church Street
c) Approve Proposal with Marquess to Prepare a Construction Design and Cost Analysis for Pine Street
- 7:35 p.m. **12) New Business:**
a) Discussion of ODOT Contract 2285-03
b) Approval of a Liquor License for Iron Skillet

- c) Resolution for Providing for the Receipt and Expenditure of Unexpected Monies
- d) Recommendations from City Manager on Vacant Positions

8:00 p.m. **13) Questions for Staff:**

- a) Attorney's report
- b) City Manager's report

8:10 p.m. **14) Council items, comments/reports** *(any councilor may bring before the Council any business not on the agenda the councilor feels should be deliberated upon by the Council, but the Council may action on such matters or defer them to a subsequent meeting)*

8:15 p.m. **15) Adjournment**

Next City of Phoenix Scheduled Meetings:

January 11th, Planning Commission Meeting
January 12th, Phoenix Urban Renewal Board Meeting
January 13th, City Council Workshop
January 18th, HOLIDAY
January 19th, City Council Meeting
January 26th, Planning Commission Meeting
February 1st, City Council Meeting
February 8th, Planning Commission Meeting
February 9th, Phoenix Urban Renewal Board Meeting

AGENDA BILL

AGENDA ITEM: 9

AGENDA TITLE: Second Reading of an Ordinance
Amending Chapter 2.28 of the Phoenix Municipal Code:
City Council Rules of Procedure

DATE: 12/30/15

ACTION REQUIRED:

ORDINANCE: XX

RESOLUTION: _____

MOTION: _____

INFORMATION: _____

EXPLANATION:

In November Council sent to the voters of Phoenix a ballot issues changing the Phoenix City Charter. The voters overwhelmingly approved those charter changes. On Monday November 23, 2015 the City Council held a workshop to review Chapter 2.28 of the Phoenix Municipal Code, City Council Rules of Procedure. From this meeting and with the help of the City Attorney the Council asked that changes to Chapter 2.28 be brought forth to have Chapter 2.28 better align with the newly approved Charter.

The Changes are highlighted in the following pages.

FISCAL IMPACT:

None

ALTERNATIVES:

Not approve the changes to Chapter 2.28 of the Phoenix Municipal Code and have staff come back with different changes.

STAFF RECOMMENDATION:

To approve the changes to Chapter 2.28 of the Phoenix Municipal Code

MOTION: "I MOVE TO APPROVE ORDINANCE NO. , AMENDING CHAPTER 2.28 OF THE PHOENIX MUNICIPAL CODE; CITY COUNCIL RULES OF PROCEDURE."

PREPARED BY: Steve Dahl

REVIEWED BY: _____

PHOENIX MUNICIPAL CODE

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PHOENIX
AMENDING CHAPTER 2.28 OF THE PHOENIX MUNICIPAL CODE**

RECITALS:

WHEREAS, the City of Phoenix has enacted an ordinance establishing rules of the City Council at Chapter 2.28 of the Phoenix Municipal Code;

WHEREAS, the City has enacted a new Charter, which requires the Council to adopt by resolution rules to govern its meetings, and the Council intends to adopt by resolution such rules as well as amend Chapter 2.28 of the Phoenix Municipal Code for consistency;

WHEREAS, the City of Phoenix determines it to be in the City's best interest to amend Chapter 2.28 amend the provisions in Chapter 2.28 of the Phoenix Municipal Code;

NOW, THE CITY OF PHOENIX ORDAINS AS FOLLOWS:

The following amends Phoenix Municipal Code: Chapter 2.28 – City Council Rules of Procedure:

2.28.010 - Authority and purpose statement.

The charter of the city of Phoenix provides that the city council shall adopt rules for governing its proceedings. The following set of rules shall be in effect upon their adoption by the council and until such time as they are amended or new rules adopted.

2.28.020 - Rules of the city council.

A. General Rules.

1. Meetings to be Public: The deliberations and proceedings of the council shall be open to the public, except as state law may provide otherwise (e.g., executive sessions).
2. Time: The time of six thirty p.m. will be set for all council meetings, except for extraordinary circumstances. Meetings will close at nine p.m.; require two-thirds approval of motion to extend until nine thirty p.m.; and then full council approval of a motion to extend until ten p.m.

3. Holidays: No city meetings will be held on city recognized holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.
4. **Quorum: Except as provided in Section 33 of the City of Phoenix Charter, four Council members shall constitute a quorum and be necessary to conduct business. If the Mayor's inclusion is needed to establish a quorum, he/she may become a voting member for that meeting. As set forth in Section 33 of the Phoenix Charter, a vacancy in the Council shall be filled by appointment by a majority of the remaining Council members, regardless of the actual number of remaining Councilors.**
5. Minutes of Meetings:
 - a. Scope: This rule is designed to meet the requirement of the Phoenix Charter that the council shall keep a record of its proceedings and it shall apply to minutes of all official meetings of the council.
 - b. Purposes: The purposes of the minutes of the Council include the following:
 - 1) To comply with the Oregon Public Meetings Law (ORS 192.610—192.690) and the Phoenix Charter (Chapter 4, Section 15);
 - 2) To provide a historical record for information, future research and examination.
 - 3) To provide a record of directives, reports, and the like for use by the administration of the city; and
 - 4) To provide a record of the legislative intent of the actions of the council.
 - c. Responsibility: The city recorder, or such other person the mayor may designate, shall have the responsibility for preparing minutes, correcting minutes to reflect council amendments, retaining minutes, and furnishing copies of minutes to persons desiring a copy.
 - d. Content of Minutes: The minutes of meetings of the council shall comply with provisions of ORS 192.650 and amendments thereto, which specifically contain the following requirements:
 - 1) Minutes shall be taken for all meetings of the council;
 - 2) Minutes shall accurately reflect the matters discussed and views of participants;
 - 3) Minutes shall be available to the public within a reasonable time after the meeting, subject to subsection i., below, regarding a fee for copies;
 - 4) Minutes shall contain the following information at a minimum:
 - a) The name of councilors and mayor;
 - b) All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;

- c) The result of any votes, including ayes and nays and the name of councilors who voted;
 - d) The substance of the discussion on any matter; and
 - e) Reference to any document discussed at the meeting.
- 5) The form of executive session minutes shall be either written minutes or a sound recording.
- e. Preparation: Minutes shall be prepared with sufficient detail to meet their intended uses. Specifically, the following guidelines shall be used:
 - 1) Verbatim minutes are not required;
 - 2) Notes may be taken either in shorthand or in brief hand;
 - 3) Sound recordings shall be made of each meeting. Equipment malfunction shall not negate the minutes. The city recorder may temporarily interrupt council proceedings in the event of equipment malfunction, change of tapes or other short-term loss of recording;
 - 4) If a verbal staff report is a summary of an agenda bill and attachment, it may be so referenced in the minutes;
 - 5) Names, and when furnished, addresses of each person testifying shall be included in the minutes;
 - 6) If a citizen's verbal testimony is a summary of a written letter or other submission, it may be so referenced in the minutes;
 - 7) All exhibits submitted and received by the mayor during hearings, and all other documents submitted, shall be incorporated into the minutes;
 - 8) The minutes shall be prepared in final form and distributed with the next council meeting agenda packet;
 - 9) Minutes are public records upon composition; however, if distributed to the public before prepared in final form for council approval or if less than a full set is distributed before council approval, "DRAFT" shall be noted on the cover page, unless the minutes are to be distributed piecemeal, in which case "DRAFT" shall be noted on each reproduced page.
- f. Submittal to Council: After being prepared in final form by the city recorder or designee, the city recorder shall sign the minutes, and include them on the council's next agenda.
- g. Amendment and Approval: The council may amend the minutes to more accurately reflect what transpired at a meeting. An individual councilor may call for additions or corrections to the minutes. Unless there is disagreement from other councilors, the motion to approve the minutes shall include the minutes as amended. If the council questions the minutes or is unsure they accurately reflect what transpired during a meeting, the council may postpone approval of the minutes until a transcript of the

portion of the meeting in question can be prepared. Information obtained subsequent to a meeting, which is relevant to discussions or action which occurred during that meeting, may be referenced into the record of the meeting at which the minutes are approved. The council is the final authority as to amendment of the minutes. After council approval, the city recorder shall incorporate any amendments approved by the council, the mayor shall sign the minutes, and the city recorder shall initial each page containing an amendment. Under no circumstances shall the minutes be changed following approval by the council, unless the council authorizes such a change.

- h. Retention: When approved and fully executed, the minutes shall be kept on file in the city recorder's office for two years, and then transferred to city vault or other storage area for permanent retention. Sound recordings of council meetings shall be retained for a minimum of five years, subject to the council ordering retention for a longer time.
 - i. Public Access and Copies: Both written minutes and sound recordings shall be available for public inspection during office hours, excluding executive sessions (ORS 192.660). Copies of written minutes shall be available to the public. The fee for these copies will be the city's current charge for such services. Sound recordings and a transcriber shall be available to the public for use on city premises. Citizens may use their own tapes and recorders to make copies of sound recordings. The city recorder may implement additional reasonable rules and procedures to assure the preservation of original sound recordings. The city is not required to cause a transcript to be made of council meetings. Upon a citizen request, however, copies of transcripts made for other purposes shall be made available in the same manner and for the same cost as written minutes.
6. Right of Councilor to be Heard: Any councilor desiring to be heard shall be recognized by the presiding officer, but shall confine his or her remarks to the subject under consideration or to be considered.
7. Rules of Order:
- a. **The "Roberts Rules of Order Newly Revised" shall govern the proceedings of the council for decorum in all cases. The provisions of this ordinance and Oregon law shall govern the procedure of all meetings. The presiding officer shall be the parliamentarian for the council.**
 - b. Types of Meetings.
 - 1) Regular Meetings: The council shall meet in the designated council chambers for regular meetings unless another facility is needed to accommodate an anticipated increase of attendance by the public at any meeting. The regular council meetings are to commence at six thirty p.m. the first and third Mondays of each month, unless the council cancels a specific meeting.

- 2) **Special Meetings: Special meetings may be called by the mayor or by three or more councilors. The call for a special meeting shall specify the day, the hour, and the location of the special meeting and shall list the subject or subjects to be considered. No special meeting shall be held until at least twenty-four hours after the call is issued, unless an emergency is declared by the caller(s) and approved by the Mayor. Only such business may be transacted at a special meeting as may be listed in the call for said meeting or as incident thereto.**
- 3) Recessed Meetings: Any meeting of the council may be recessed to a later date and time, provided that no recess shall be for a longer period than until the next regular meeting.
- 4) Executive Sessions: Executive sessions or closed meetings may be held in accordance with the provisions of the state public meetings law. During executive sessions, the council may exclude all employees of the city from the meeting. Unless excluded, the city recorder and the city attorney, or their designate, shall attend, as well as staff members affected by the specific matter before the council. The mayor shall determine which members of the administrative staff shall attend, subject to some or all of them being excluded by the council. All other persons, including other members of the administrative staff, shall not attend executive sessions unless specifically invited by the council. **Bona fide media representatives permitted by state law to attend shall be given an oral or written admonition by the presiding officer prohibiting disclosure of the substance of any discussion during executive sessions. Any individual representative of the media who violates this admonition may be barred by the council from subsequent executive sessions. The Council may, by resolution, establish criteria and guidelines by which to determine whether a media representative is qualified hereunder.**

2.28.030 - Presiding officer and duties.

- A. Presiding Officer. The mayor shall preside at all meetings of the council. In the absence of the mayor, the president of the council shall preside. In the absence of both the mayor and the president of the council the vice-president shall preside at the meeting.
- B. Call to Order. The meetings of the council shall be called to order by the mayor, or in the mayor's absence, by the president or the vice-president of the council. In the absence of all three, the meeting shall be called to order by any councilor for the purpose of electing a councilor to preside at the meeting.
- C. Preservation of Order. The presiding officer shall preserve order and decorum, discourage attacks on personalities or the impugning of councilor's motives, and confine councilor debate to the question under discussion. **Except for official**

business and matters reasonably related and/or necessary respecting the matters on the agenda or raised during the meeting, persons and council members in attendance of the meeting should refrain from the use of cell phones and/or smart phones. No councilmember or city official shall use cell phones to contact third persons during such time. Persons in attendance at the meeting who become disorderly, abusive, or disruptive may be removed from the meeting. The presiding officer may summon the assistance of the police or other administrative staff to assist in maintaining order, and if an arrest of a person(s) is deemed necessary by the presiding officer to restore or maintain order, the presiding officer may sign a complaint or citation on behalf of the city.

- D. Points of Order. The presiding officer shall decide all points of order, subject to the right of any councilor to appeal to the council. If any appeal is taken, the question shall be, "Shall the decision of the presiding officer be sustained?"
- E. Questions to be Stated. The presiding officer shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any councilor in the same manner as the final adoption of an ordinance.
- F. Substitution for Presiding Officer. The presiding officer may call the president or vice-president of the council or, if both absent, any other councilor to temporarily preside over the meeting in order to take part in debate, to make a motion, or to cover a temporary absence, such substitution not to continue beyond adjournment.

2.28.040 - Order of business and agenda.

- A. Order of Business. The general rule as to the order of business in regular meetings shall be as follows:
 - 1. Call to order.
 - 2. Pledge of allegiance.**
 - 3. Roll call.
 - 4. Visitors/Citizen comments. Presentation of any matter not on the agenda, with discussion limited to three minutes. The Mayor may extend the time upon a showing of good cause.**
 - 5. Public hearings.
 - 6. Consent agenda.
 - 7. Attorney's report.
 - 8. City manager's report.
 - 9. Planner's report.
 - 10. Engineer's report.
 - 11. Special presentations to the council.
 - 12. Action items, including unfinished and new business.
 - 13. Ordinances, including reading and/or adoption.

14. Council items.
15. Staff items or reports.
16. Adjournment.

The mayor may, at his discretion, except for items 1 through 3, change the order of business on the agenda and omit items 7 through 10, unless he is specifically requested to place them on the agenda.

- B. Agenda. The order of business of each meeting shall be as contained in the agenda prepared by the city recorder. The agenda shall be a listing by topic of subjects to be considered by the council. The mayor shall determine agenda items or cause any item requested by a councilor to be placed on the agenda in a timely manner. The agenda shall be delivered no later than the Friday preceding a council meeting.
- C. Presentation by Councilors. The agenda shall provide a time when any councilor may bring before the council, **subject to Oregon public meetings law**, any business the councilor feels should be deliberated upon by the council. These matters need not be specifically listed on the agenda, but the council may decline formal action on such matters or the matter may be deferred by the council to a subsequent meeting if the matter(s) will require deliberation by the Council.

2.28.050 - City attorney.

A. Position.

1. The council shall annually review the contract of the city attorney.

B. Duties.

1. Provide legal advice and opinions orally and in writing to the council, mayor, any other person authorized by the council or any administrative staff authorized by the mayor to obtain such advice and opinions;
2. Prepare and negotiate contracts and other legal instruments as directed by the council. Review and approve, as to form, all written contracts, bonds, real property instruments and other legally binding documents to which the city is a party;
3. Prepare or have final approval over all ordinances, resolutions, orders or other documents of council decisions, prior to their submission to the council for adoption or approval;
4. Represent and defend the city and its boards, commissions, committees, officers and employees. The city attorney shall not represent persons who the council determines have acted outside the scope of their employment or duties, committed malfeasance in office, or willful neglect of duty.
5. Institute legal actions for the city in any court or tribunal as directed by the council. If approved by the council, the city attorney shall institute appeals on behalf of the city in any case in which another party has first appealed. The city attorney shall institute other appeals as directed by the council;

6. Submit written or oral reports to the council as frequently as required by the council concerning the status of all tort claims and legal actions in which the city is a party; and
 7. Such other duties as the council shall, from time to time, assign to the city attorney.
 8. Acts as prosecutor in municipal court.
- C. Records. The city attorney shall maintain records of all significant written opinions furnished to the city or to any department, official, or employee, and at the city office.
- D. Attorney-Client Relationship. The city and the office of the city attorney shall have an attorney-client relationship, and the city shall be entitled to all the benefits thereof.
- E. Settlements. The city attorney may settle legal claims as decided by the council.

2.28.055 - Committees.

The council may create committees to assist in the conduct of its charter duties with such assignments as the council may specify. The mayor shall appoint members to such committees to serve until the special purpose for which the committee was created has been accomplished or the committee is abolished by the council. All committees so created shall be advisory to the council and shall conduct their meetings in accordance with the public meetings law. For the purpose of local budget law, the mayor is a member of the governing body of the city of Phoenix.

2.28.060 - Conduct of legislative and quasi-judicial hearings.

A. Nature and General Conduct of Quasi-Judicial Hearings.

1. The council, when conducting quasi-judicial hearings shall afford persons entitled under the codes of the city, such as the development code, notice of hearing, an opportunity to be heard, to present and rebut evidence to an impartial tribunal, to have the proceedings recorded, and to have a decision based on substantial evidence.
2. No person in attendance shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing. Any person may be removed from the hearing for such conduct.
3. No person offering testimony shall speak more than once without obtaining permission from the presiding officer.
4. No person shall testify without first receiving recognition from the presiding officer and stating his or her name and residence or business address.
5. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by city personnel shall be deemed relevant, material and competent unless objected to by a party to the hearing with good cause and at the first available opportunity.

6. There shall be no audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the hearing.
7. The presiding officer, councilors, city attorney and, with the approval of the presiding officer, any other officer or employee of the city may question and cross-examine any person who testifies.

B. Challenging Participation by a Councilor.

1. Any proponent, opponent of, or other party interested in a matter to be heard by the council may challenge the qualification of any councilor to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a councilor's bias, prejudgment, personal interest, or other facts from which the party has concluded that the councilor will not participate and make a decision in an impartial manner.
 - a. Such challenge must be made prior to the commencement of the public hearing.
 - b. Such challenge shall be incorporated into the record of the hearing.
2. No councilor shall participate in discussion or vote on the matter when for any reason the councilor determines he or she cannot participate in the hearing and decision in an impartial manner.
3. No other officer or employee of the city who has a financial or other private interest shall participate in discussion with, or give an official opinion to the council on the matter without first declaring for the record the nature and extent of such interest.
4. The general public has a right to have councilors free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, councilors shall reveal any significant prehearing or ex parte contacts with regard to any matter as early as possible under the circumstances in the hearing on the matter. If such contacts have impaired the councilor's impartiality or ability to vote on the matter, the councilor shall so state and shall abstain therefrom.
5. Notwithstanding any provision of this or any other rule: (1) an abstaining or disqualified councilor may be counted for purposes of forming a quorum; and (2) a councilor may represent himself or herself, a client or any other member of the public at a hearing, provided that councilor:
 - a. Abstains from the vote on the matter;
 - b. Removes himself or herself from the council area and joins the audience; and
 - c. Makes full disclosure of his/her status and position at the time of addressing the council.

C. Burden and Nature of Proof. The burden of proof is upon the proponent, if any. The more drastic the change, or the greater the impact of a proposal in an area, the greater the burden upon the proponent.

- D. Order of Procedure. The presiding officer, in the conduct of the hearing shall:
1. Commence the Hearing: Announce the nature and purpose of the hearing and summarize the rules for the conduct of the hearing.
 2. Call for Abstentions:
 - a. Inquire of the council whether any member thereof wishes to abstain from participation in the hearing. **Any councilor then announcing a decision to abstain shall not participate in discussion of the matter or vote on the matter.**
 - b. Any councilor whose participation has been challenged by allegation of bias, prejudgment, personal interest, or partiality or who has been subject to significant ex parte or prehearing contact with proponents or opponents, may make a statement in response thereto or in explanation thereof, as part of his or her decision to participate in the hearing. This statement shall not be subject to cross-examination, except upon consent of that councilor, but shall be subject to rebuttal by the proponent or opponent, as appropriate.
 3. Objections to Jurisdiction: Inquire of the audience whether there are any objections to the jurisdiction of the council to hear the matter. The presiding officer shall terminate the hearing if the inquiry results in substantial evidence that the council lacks jurisdiction or the procedural requirements of any code or ordinance provision were not met. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the council.
 4. Staff Report, Planning Commission Recommendation, Etc.: Summarize the nature of the matter, explain any graphic or pictorial displays which are a part of the record, summarize the staff report, summarize the findings and decision of the planning commission or other appropriate board or agency and provide such other information as may be requested by the council. The presiding officer may request a representative of staff or any other city officer or employee to perform this duty.
 5. Proponent's Case: The presiding officer shall determine whether the proponent will present the case in person or by representative. The applicant-proponent shall first be heard and persons in favor of the proponent's proposal shall next be heard.
 6. Opponent's Case: Opponents shall be heard in the following order:
 - a. Neighborhood associations, special organizations formed for the purpose of opposition, or other groups represented by council or a spokesperson shall be allowed by the presiding officer to first proceed.
 - b. Persons who received notice of the hearing or who were entitled to receive notice of the hearing are presumed to have an interest in the proposal and shall next be heard.
 - c. Persons who did not receive notice and who were not entitled to notice shall next be heard.

7. **Public Agencies:** The presiding officer shall allow representatives of any city, state agency, regional authority, or municipal or quasi-municipal corporation existing pursuant to law to next be heard.
8. **Rebuttal Evidence:** The presiding officer shall allow the proponent to offer rebuttal evidence and testimony and, if provided, allow the opponent or other interested party to rebut the new evidence or testimony offered by the proponent's rebuttal.
9. **Written Communications:** Written communications addressing a matter before the council at a hearing shall be distributed to the council before commencement of the hearing and considered for receiving into evidence.
10. **Close of Hearing and Deliberation by Council:** The presiding officer shall conclude the hearing and the council shall deliberate the matter. The council shall either make its decision and state its findings, which may incorporate findings proposed by the proponent, opponents, the staff, or the planning commission, or may continue its deliberations to a subsequent meeting, the time and place of which must then be announced. The subsequent meeting shall be for the purpose of continued deliberation, or to consider proposed findings and the presiding officer shall not allow additional submission or testimony, except upon approval by the council.

E. Official Notice.

1. The council may take official notice of the following:
 - a. All facts which are judicially noticeable; and
 - b. The charter, codes, ordinances, resolution, rules, regulations and official policies (if written) of the city.
2. Matters officially noticed need not be established by evidence and may be considered by the council in the determination of the proposal.

F. Record of Proceedings.

1. The city recorder, or other designee of the presiding officer, shall be present at each hearing and shall cause the proceedings to be stenographically or electronically recorded. It shall not be necessary to transcribe testimony unless required for judicial or administrative review or unless ordered by the council.
2. The presiding officer shall, where practicable, cause to be received all physical and documentary evidence presented which shall be marked to show the identity of the person offering the same and whether presented on behalf of proponent or opponent. Unless evidence is capable of being offered and incorporated in the record of the case, it shall not be received. All exhibits received into evidence shall be retained by the council until after any applicable appeal period has expired. At which time, the exhibits may be released, upon written request to the person identified thereon.

3. Any member of the public shall have access to the record of the proceedings at reasonable time, places and circumstances. Any member of the public shall be entitled to have copies of the record at his or her own expense.

G. Publication of Hearing Rules.

1. These rules governing conduct of hearings shall be placed on record with the city recorder.
2. A copy of these rules for conduct of hearings shall be available to the public. The fee for these copies will be the city's current charge for such services.
3. These rules are supplementary to any other rules of procedure adopted by the council, provided, however, these rules shall control where there are conflicting provisions, unless provided otherwise herein.

- H. Legislative Hearings. All of the above rules shall apply to legislative hearings (comprehensive plan updates, development code updates, map amendments, etc.) except that city councilors are allowed to participate and vote on any matter regardless if a bias exists (refer to subsection B.2.); and may have prehearing ex parte; contacts (refer to subsection B.4.).

2.28.070 - Execution of contracts.

- A. Purpose. This rule constitutes guidelines for executing certain contracts that the council has authorized through the contracts review process, the development process or the budget process. It does not affect the need for public bidding. It clarifies when a contract may be executed by the city manager or mayor (or in the absence of the mayor, the council president) without additional council approval of the contract itself.
- B. The city manager or mayor (or in the absence of the mayor, the council president) may execute the following contracts without further council approval:
1. The resulting contract when the council acting as the contract review board selects a contract bid or proposal or authorizes an exemption.
 2. Real property acquisitions, which are an incidental part of a public improvement project approved by council, or acquisitions, which are a condition of a development permit, unless the other party requires council approval.
 3. Except for real estate transactions not covered by subsection B.2., above, and outside legal counsel's services which must be approved by the council, all other public contracts, providing any funds required to be paid by the city pursuant to the contract have been specifically identified in the budget and do not exceed the amount appropriated for the purpose.

2.28.080 - Reconsideration of actions taken.

Unless specifically governed by other provisions of the codes, ordinances, or other regulations of the city, any councilor who voted with the majority, or was not present at the time of the vote, may move for reconsideration of an action at the same or the next following regular meeting of the council. Once a matter has been reconsidered, no

motion for further reconsideration thereof shall be made without unanimous consent of the council.

2.28.090 - Councilor liaisons to committees, boards, and commissions.

The council has created the position of council liaison to maintain contact between the council and city committees, boards and commissions. Unless specifically provided otherwise in the codes, ordinances, resolutions or other regulations of the city, a councilor who is the liaison to any committee, board or commission of the city shall not chair that body. Nothing in this rule is intended to limit the councilor's right to take part in all discussion and debate in any matter before the committee, board or commission.

2.28.100 - Evaluation of contracted officers.

The council, by majority vote of the entire council, may appoint and remove all contracted officers subject to their contracts.

2.28.110 - Requests for administrative staff action; consensus of council.

This rule governs situations where, although no formal vote is taken on a matter discussed by the council at a meeting, at least one councilor requests some action from the administrative staff. The presiding officer shall determine if agreement exists among all present at the meeting. If consensus is established or a formal vote taken approving the request for action, the directive shall be made to the mayor rather than the individual staff member. This rule does not apply to matters directed to the contractual person.

2.28.120 - Suspension of rules.

Any provision of these rules not required by state law or the Phoenix Charter may be temporarily suspended by the council.

PASSED AND ADOPTED by the City Council and signed by me in authentication thereof on this _____ day of _____, 2016.

Mayor

ATTEST:

City Manager/Designee

AGENDA BILL

AGENDA ITEM: 10a

AGENDA TITLE: Financial Report for Period Ending November 30, 2015.

DATE: December 29, 2015

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: _____

INFORMATION: XX

EXPLANATION:

Attached is summary report for City financial statements for the period ending November 30, 2015.

FISCAL IMPACT:

N/A

ALTERNATIVES:

N/A

STAFF RECOMMENDATION:

That Council accepts the November 31, 2015 financial statements as presented

MOTION:

PREPARED BY: Steve Weber REVIEWED BY: 



To: Mayor and Council
 From: Steve Weber, Finance Director
 Date: December 29, 2015
 Subject: November 2015 Financial Statements

Background:

The November 30, 2015 financial statements reflect the first 5 months of the fiscal year. Following a review of the activity for the first five months of the fiscal year, I am pleased to report that, for the most part, revenues are coming in as expected and that expenditures are in line with the period.

<u>General Fund</u>	<u>Year-to-Date</u>	<u>Budget</u>	<u>% of Budget</u>	<u>Prior Year</u>
Revenues	\$ 1,138,323	\$ 1,789,615	64%	\$ 1,122,382
Expenditures				
Executive	\$ 44,474	\$ 89,150	50%	\$ 39,002
Admin	\$ 49,220	\$ 127,455	39%	\$ 44,160
Police	\$ 487,438	\$ 1,192,590	41%	\$ 482,340
Planning	\$ 52,869	\$ 133,010	40%	\$ 54,898
Building	\$ 39,413	\$ 102,110	39%	\$ 30,985
Parks	\$ 43,655	\$ 99,160	44%	\$ 25,743
Interdepartment	\$ 22,560	\$ 52,730	43%	\$ 33,075
Transfers	\$ -	\$ 2,000	0%	\$ -
Contingency		\$ 154,280	0%	\$ -
Total Expenditures	\$ 739,629	\$ 1,952,485	38%	\$ 710,203
Revenues over/(under) Expenditures	\$ 398,694	\$ (162,870)		\$ 412,179

General Fund: Year to date, revenues exceed expenditures by \$398,694 (\$1,138,323 vs. \$739,629). This has been aided by Property Tax receipts coming in at 91.49% or an increase of \$36,108 over the prior year. Other revenue items are coming in as expected for the time period. Overall, revenues are at 63.61% for the year. Although total general fund expenditures are at 37.88% for the year there are certain expenditure areas (Professional/Contract Services, Temp. Personnel, and supplies) that will be monitored throughout the remainder of the fiscal year. Overall, the General Fund is where we expected it to be through the first 5 months of the fiscal year.

Street Fund	Year-to-Date	Budget	% of Budget	Prior Year
Revenues	\$ 240,849	\$ 804,780	30%	\$ 183,700
Expenditures				
Operating				
Personal Services	\$ 68,790	\$ 174,085	40%	\$ 56,137
Materials & Supplies	\$ 114,949	\$ 250,985	46%	\$ 68,720
Capital Outlay	\$ 10,837	\$ 12,500	87%	\$ -
Non-Operating				
Transfers	\$ -	\$ 123,886	0%	\$ -
Contingency	\$ -	\$ 75,000	0%	\$ -
Total Expenditures	\$ 194,576	\$ 636,456	31%	\$ 124,857
Revenues over/(under)				
Expenditures	\$ 46,273	\$ 168,324		\$ 58,843

Street Fund: Revenues overall show below the 41.67% expected for the time period. Primary factors contributing to this variance are proceeds from ODOT from the jurisdictional exchange (\$250,000) as well as SCA grant revenue (\$50,000). These two items represent 38% of overall fund revenue. Although total street fund expenditures are at 30.57% for the year, there are several line items will need to be monitored during the remainder of the fiscal year. These factors contribute to the revenues exceeding expenditures year to date by \$46,273 (\$240,849 vs. \$194,576). Operating Expenditures are higher this year compared to last year due to the crack sealing project on Main Street and Bear Creek Drive, consultant fees for review of chip seal project and the purchase of a truck.

Water Fund	Year-to-Date	Budget	% of Budget	Prior Year
Revenues	\$ 595,058	\$ 1,472,855	40%	\$ 556,824
Expenditures				
Operating				
Personal Services	\$ 171,500	\$ 387,835	44%	\$ 163,687
Materials & Supplies	\$ 301,462	\$ 525,205	57%	\$ 223,558
Capital Outlay	\$ 10,837	\$ 12,500	87%	\$ 10,020
Debt Service	\$ 100,829	\$ 134,160	75%	\$ 134,160
Non-Operating				
Transfers	\$ -	\$ 134,179	0%	\$ -
Contingency	\$ -	\$ 100,000	0%	\$ -
Total Expenditures	\$ 584,628	\$ 1,293,879	45%	\$ 531,425
Revenues over/(under)				
Expenditures	\$ 10,430	\$ 178,976		\$ 25,399

Water Fund: Although revenues overall show just below the 41.67% expected for the time period, water sales revenue is coming in at just over 46%. Materials and Services expenditures continue to be above the levels expected for the time period; due to paying our general liability and property insurance premiums, the annual maintenance charges for the Lost Creek Reservoir, as well as the purchase of new meters approved by Council in September. Several line items will be monitored throughout the remaining months of the fiscal year. Despite the effects of the items mentioned above, revenues exceed expenditures for the year by \$10,430 (\$595,058 vs. \$584,628).

AGENDA BILL

AGENDA ITEM: 11(a)

AGENDA TITLE: Fee proposal for Civil Engineering Services Capital Improvement Plan

DATE: 12/30/15

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

Council asked that a Capital Improvement Plan be developed for the City of Phoenix. Staff asked the newly appointed engineering firm to provide a scope of work, staff utilization, timeline, and approximate cost for doing a ten year capital improvement plan.

Attached is the proposal for Marquess to complete a ten year Capital Improvement Plan.

FISCAL IMPACT:

Cost would be \$19,200. From the Public Works Budget.

ALTERNATIVES:

Council can ask staff to get pricing from RH2 or go do a Request For Proposals

STAFF RECOMMENDATION:

Approving the proposal.

MOTION: "I MOVE TO APPROVE THE FEE PROPOSAL FOR CIVIL ENGINEERING SERVICES CAPITAL IMPROVEMENT PLAN."

PREPARED BY: Steve Dahl **REVIEWED BY:** _____



YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
EMAIL: info@marquess.com WEB: www.marquess.com

November 5, 2015

City of Phoenix
Attn: Kevin Caldwell
P.O. Box 330
Phoenix, OR 97535

**RE: FEE PROPOSAL FOR CIVIL ENGINEERING SERVICES
CITY OF PHOENIX CAPITAL IMPROVEMENT PLAN UPDATE
MAI PROPOSAL NO. P15-9116**

Dear Mr. Caldwell:

Thank you for requesting this fee proposal to provide Civil Engineering services to update the City's Capital Improvement Plan (CIP). It is our understanding that the CIP will be prepared for a ten year time span compared to the five year span in the current CIP. We are pleased to provide you with the following scope of work and proposed fee.

Scope of Work

MAI staff will complete the following tasks in preparation of the new CIP:

- Review the current CIP.
- Review the list of projects that City staff has prepared for inclusion in the updated CIP.
- Perform site visits to the City of Phoenix to observe existing conditions and note items that could possibly be included in the CIP.
- Meet with City staff to review projects to be included in the CIP. This may include site visits to specific projects to walk the site and discuss the project in the field.
- Meetings and coordination with City staff regarding the funding and budgeting for projects.
- Prepare a draft version of the CIP and submit to the City for review and comment.
- Meet with City staff to review the draft CIP and discuss City comments.
- Address all City comments and produce the final CIP for submittal to the City.
- Attend City Council meetings as needed to answer questions regarding the CIP.

Staff Utilization, Final Document and Timeline

For the preparation of the CIP we estimate that the following staff will be utilized:

- Senior Engineer 15%
- Project Manager 40%
- Designer I 35%
- Word Processor 10%

We envision that the final CIP document will follow the same format as the previous CIP with minor modifications made based on City staff input. The project descriptions would be expanded to include more description of the proposed projects (i.e length of street improvements and proposed street widths). The projected costs would be presented as ranges rather than a fixed amount for each project due to forecasting prices for a ten year time span.

We anticipate that the final CIP would be completed three months after MAI receives official Notice to Proceed on this project. This timeframe allows for multiple City reviews during the CIP preparation process.

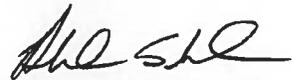
Fees

We propose to perform the work described in this proposal on a Time and Materials basis with a not to exceed fee of Nineteen Thousand Two Hundred Dollars (\$19,200).

The above fee includes normal reimbursable expenses such as printing and mileage. All additional work which is outside the scope of services described shall be paid for at the hourly rates on the attached rate schedule.

Sincerely,

MARQUESS & ASSOCIATES, INC.



Robert S. Gunter, P.E.

RSG/rsg

Attachments: Exhibit A



YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
 EMAIL: info@marquess.com WEB: www.marquess.com

EXHIBIT "A"
January 1, 2015

ENGINEERING FEE SCHEDULE

Executive Engineer	\$155.00 per hour
Principal Engineer	\$145.00 per hour
Geotechnical Engineer.....	\$145.00 per hour
Senior Engineer	\$126.00 per hour
Project Manager.....	\$110.00 per hour
Project Engineer	\$ 97.00 - \$114.00 per hour
Design Engineer	\$ 97.00 per hour
Designer II	\$ 81.00 per hour
Erosion Control Inspector.....	\$ 80.00 per hour
Designer I	\$ 70.00 per hour
Drafter II.....	\$ 62.00 per hour
Soils Technician	\$ 58.00 - \$ 62.00 per hour
Special Inspector.....	\$ 52.00 - \$ 60.00 per hour
Drafter I	\$ 56.00 per hour
Word Processor.....	\$ 50.00 per hour
Mileage	\$ 0.65 per mile
Out-of-Pocket Expenses	Actual Cost
Material Testing Services	Schedule Provided On Request

PAYMENT: Payment on the billings must be made on or before the 20th day of each month.

A CHARGE OF 1.5% PER MONTH (18% ANNUAL PERCENTAGE RATE) WILL BE ADDED AFTER 30 DAYS UNLESS PRIOR ARRANGEMENTS ARE MADE.

This Fee Schedule is subject to periodic changes.

AGENDA BILL

AGENDA ITEM: 11(b)

AGENDA TITLE: Fee proposal for Civil Engineering Services for Church Street Improvements

DATE: 12/30/15

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

One of the stated priorities for the City Council is to improve Church Street. City Staff has asked Marquess to submit a proposal that when completed would be used to bid Church Street. The proposal includes topographic survey, street monument referencing, sewer, water, curb gutter, sidewalks and resurfacing of Church Street

Attached is the proposal for Marquess for Church Street Improvements.

FISCAL IMPACT:

Cost would be \$41,080. Cost would be split 50/50 out of water and street contingency funds.

ALTERNATIVES:

Council can ask staff to get pricing from RH2 or go do a Request For Proposals or we can put the Engineering off until 2016/17 budget year.

STAFF RECOMMENDATION:

Approving the proposal.

MOTION: "I MOVE TO APPROVE THE FEE PROPOSAL FOR CIVIL ENGINEERING SERVICES FOR CHURCH STREET IMPROVEMENTS."

PREPARED BY: Steve Dahl

REVIEWED BY: _____



YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
EMAIL: info@marquess.com WEB: www.marquess.com

November 9, 2015

City of Phoenix
Attn: Kevin Caldwell
P.O. Box 330
Phoenix, OR 97535

**RE: FEE PROPOSAL FOR CIVIL ENGINEERING SERVICES
CHURCH STREET IMPROVEMENTS
MAI PROPOSAL NO. P15-9116**

Dear Mr. Caldwell:

Thank you for requesting this fee proposal to provide Civil Engineering services to prepare plans for street improvements to Church Street from 1st Street to 6th Street (approximately 1,690 feet) as outlined in the City's current Capital Improvement Plan. We are pleased to provide you with the following scope of work and proposed fee.

Scope of Work

Surveying Services

MAI will subcontract all surveying services for this project to Terrasurvey, Inc.

1. Topographic Survey – The survey will include edge of existing pavement, curbs, sidewalks, visible utilities, underground utilities based on locates, fences, ditches, irrigation boxes, manhole and catch basin inverts where accessible, street right of way lines based on existing monuments, tree within the right of way, driveways to a point 20' beyond the right of way, intersecting streets to approximately 50' beyond the intersection, signs, mailboxes, culvert, utility poles, and off-site drainage structures if they impact the proposed road improvements.
2. Street Monument Referencing – Existing street centerline monuments within the proposed street improvement areas will be referenced to offsite control points. The scope does not include setting new monuments after construction is complete.

Engineering Services

1. After the topographic survey has been completed, MAI staff will prepare a preliminary horizontal layout for the proposed street. MAI will meet with City staff and review the preliminary layout and discuss impacts and possible alternatives to minimize impacts to existing features and reduce project costs.

2. Based on the approved horizontal layout MAI will prepare project plans for the proposed improvements (curb and gutter, sidewalks, asphalt pavement section, water main replacement, and storm drain system as needed). Plans will be submitted to the City at 75%, 90%, and 100% completion levels for City review and comment. MAI will meet with City staff after each submittal to review the plans and discuss City comments. MAI will incorporate all City comments into the plan set for the next submittal. A final set of stamped and signed plans will be issued for bidding after all City comments have been addressed.
3. MAI staff will prepare a Bid Item list for the project based on the final plans. MAI will also prepare an Engineer's Opinion of Probable Cost for the project to be used during the bidding phase of the project.
4. MAI staff will assist City staff in preparing the bid document package for the project. MAI staff will attend the pre-bid meeting and be available to answer questions from bidders during the bid phase of the project.
5. MAI staff will attend the pre-construction meeting and be available to answer questions if conflicts are encountered during construction.

Staff Utilization and Timeline

For the preparation of the Church Street Improvement Plans we estimate that the following staff will be utilized:

- | | |
|-------------------|-----|
| • Senior Engineer | 15% |
| • Project Manager | 30% |
| • Designer I | 50% |
| • Word Processor | 5% |

The street improvement plans will be prepared on standard 24"x36" sheets at a scale of 1" = 20'.

We anticipate that the final street improvement plans would be completed five months after MAI receives official Notice to Proceed on this project. This timeframe allows for multiple City reviews during the plan preparation process.

Fees

We propose to perform the work described in this proposal for the following fees:

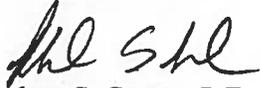
Topographic survey	\$ 7,360
Street Monument Referencing	\$ 960
Engineering Services	<u>\$32,760</u>
TOTAL	\$41,080

The survey services from Terrasurvey, Inc. will be billed out on a lump sum basis. The engineering services will be billed out on a Time and Materials basis per the attached Rate Schedule with a Not-to-Exceed fee noted above for engineering services.

The above fee includes normal reimbursable expenses such as printing and mileage. All additional work which is outside the scope of services described shall be paid for at the hourly rates on the attached rate schedule.

Sincerely,

MARQUESS & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "RSG", written in a cursive style.

Robert S. Gunter, P.E.

RSG/rsg

Attachments: Exhibit A



YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
 EMAIL: info@marquess.com WEB: www.marquess.com

EXHIBIT "A"
January 1, 2015

ENGINEERING FEE SCHEDULE

Executive Engineer.....	\$155.00 per hour
Principal Engineer	\$145.00 per hour
Geotechnical Engineer.....	\$145.00 per hour
Senior Engineer	\$126.00 per hour
Project Manager.....	\$110.00 per hour
Project Engineer	\$ 97.00 - \$114.00 per hour
Design Engineer	\$ 97.00 per hour
Designer II.....	\$ 81.00 per hour
Erosion Control Inspector.....	\$ 80.00 per hour
Designer I	\$ 70.00 per hour
Drafter II.....	\$ 62.00 per hour
Soils Technician	\$ 58.00 - \$ 62.00 per hour
Special Inspector.....	\$ 52.00 - \$ 60.00 per hour
Drafter I	\$ 56.00 per hour
Word Processor.....	\$ 50.00 per hour
Mileage.....	\$ 0.65 per mile
Out-of-Pocket Expenses	Actual Cost
Material Testing Services	Schedule Provided On Request

PAYMENT: Payment on the billings must be made on or before the 20th day of each month.

A CHARGE OF 1.5% PER MONTH (18% ANNUAL PERCENTAGE RATE) WILL BE ADDED AFTER 30 DAYS UNLESS PRIOR ARRANGEMENTS ARE MADE.

This Fee Schedule is subject to periodic changes.

AGENDA BILL

AGENDA ITEM: 11(c)

AGENDA TITLE: Fee proposal for Civil Engineering Services for Pine Street Improvements

DATE: 12/30/15

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

One of the stated priorities for the City Council is to improve Pine Street. City Staff has asked Marquess to submit a proposal that when completed would be used to bid Pine Street. The proposal includes topographic survey, street monument referencing, sewer, water, curb gutter, sidewalks and resurfacing of Pine Street

Attached is the proposal for Marquess for Pine Street Improvements.

FISCAL IMPACT:

Cost would be \$38,380. Cost would be split 50/50 out of water and street contingency funds.

ALTERNATIVES:

Council can ask staff to get pricing from RH2 or go do a Request For Proposals or we can put the Engineering off until 2016/17 budget year.

STAFF RECOMMENDATION:

Approving the proposal.

MOTION: "I MOVE TO APPROVE THE FEE PROPOSAL FOR CIVIL ENGINEERING SERVICES FOR PINE STREET IMPROVEMENTS."

PREPARED BY: Steve Dahl

REVIEWED BY: _____



YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
EMAIL: info@marquess.com WEB: www.marquess.com

November 9, 2015

City of Phoenix
Attn: Kevin Caldwell
P.O. Box 330
Phoenix, OR 97535

**RE: FEE PROPOSAL FOR CIVIL ENGINEERING SERVICES
PINE STREET IMPROVEMENTS
MAI PROPOSAL NO. P15-9116**

Dear Mr. Caldwell:

Thank you for requesting this fee proposal to provide Civil Engineering services to prepare plans for street improvements to Pine Street from 1st Street to 5th Street (approximately 1,270 feet) as outlined in the City's current Capital Improvement Plan. We are pleased to provide you with the following scope of work and proposed fee.

Scope of Work

Surveying Services

MAI will subcontract all surveying services for this project to Terrasurvey, Inc.

1. Topographic Survey – The survey will include edge of existing pavement, curbs, sidewalks, visible utilities, underground utilities based on locates, fences, ditches, irrigation boxes, manhole and catch basin inverts where accessible, street right of way lines based on existing monuments, tree within the right of way, driveways to a point 20' beyond the right of way, intersecting streets to approximately 50' beyond the intersection, signs, mailboxes, culvert, utility poles, and off-site drainage structures if they impact the proposed road improvements.
2. Street Monument Referencing – Existing street centerline monuments within the proposed street improvement areas will be referenced to offsite control points. The scope does not include setting new monuments after construction is complete.

Engineering Services

1. After the topographic survey has been completed, MAI staff will prepare a preliminary horizontal layout for the proposed street. MAI will meet with City staff and review the preliminary layout and discuss impacts and possible alternatives to minimize impacts to existing features and reduce project costs.

2. Based on the approved horizontal layout MAI will prepare project plans for the proposed improvements (curb and gutter, sidewalks, asphalt pavement section, water main replacement, and storm drain system as needed). Plans will be submitted to the City at 75%, 90%, and 100% completion levels for City review and comment. MAI will meet with City staff after each submittal to review the plans and discuss City comments. MAI will incorporate all City comments into the plan set for the next submittal. A final set of stamped and signed plans will be issued for bidding after all City comments have been addressed.
3. MAI staff will prepare a Bid Item list for the project based on the final plans. MAI will also prepare an Engineer's Opinion of Probable Cost for the project to be used during the bidding phase of the project.
4. MAI staff will assist City staff in preparing the bid document package for the project. MAI staff will attend the pre-bid meeting and be available to answer questions from bidders during the bid phase of the project.
5. MAI staff will attend the pre-construction meeting and be available to answer questions if conflicts are encountered during construction.

Staff Utilization and Timeline

For the preparation of the Pine Street Improvement Plans we estimate that the following staff will be utilized:

- | | |
|-------------------|-----|
| • Senior Engineer | 15% |
| • Project Manager | 30% |
| • Designer I | 50% |
| • Word Processor | 5% |

The street improvement plans will be prepared on standard 24"x36" sheets at a scale of 1" = 20'.

We anticipate that the final street improvement plans would be completed five months after MAI receives official Notice to Proceed on this project. This timeframe allows for multiple City reviews during the plan preparation process.

Fees

We propose to perform the work described in this proposal for the following fees:

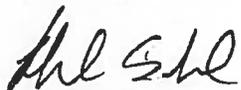
Topographic survey	\$ 5,920
Street Monument Referencing	\$ 960
Engineering Services	<u>\$31,500</u>
TOTAL	\$38,380

The survey services from Terrasurvey, Inc. will be billed out on a lump sum basis. The engineering services will be billed out on a Time and Materials basis per the attached Rate Schedule with a Not-to-Exceed fee noted above for engineering services.

The above fee includes normal reimbursable expenses such as printing and mileage. All additional work which is outside the scope of services described shall be paid for at the hourly rates on the attached rate schedule.

Sincerely,

MARQUESS & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "RSG" or "RSG/G", written in a cursive style.

Robert S. Gunter, P.E.

RSG/rsg

Attachments: Exhibit A



YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
EMAIL: info@marquess.com WEB: www.marquess.com

EXHIBIT "A"
January 1, 2015

ENGINEERING FEE SCHEDULE

Executive Engineer.....	\$155.00 per hour
Principal Engineer	\$145.00 per hour
Geotechnical Engineer.....	\$145.00 per hour
Senior Engineer	\$126.00 per hour
Project Manager.....	\$110.00 per hour
Project Engineer	\$ 97.00 - \$114.00 per hour
Design Engineer	\$ 97.00 per hour
Designer II.....	\$ 81.00 per hour
Erosion Control Inspector.....	\$ 80.00 per hour
Designer I	\$ 70.00 per hour
Drafter II.....	\$ 62.00 per hour
Soils Technician	\$ 58.00 - \$ 62.00 per hour
Special Inspector.....	\$ 52.00 - \$ 60.00 per hour
Drafter I	\$ 56.00 per hour
Word Processor.....	\$ 50.00 per hour
Mileage	\$ 0.65 per mile
Out-of-Pocket Expenses	Actual Cost
Material Testing Services	Schedule Provided On Request

PAYMENT: Payment on the billings must be made on or before the 20th day of each month.

A CHARGE OF 1.5% PER MONTH (18% ANNUAL PERCENTAGE RATE) WILL BE ADDED AFTER 30 DAYS UNLESS PRIOR ARRANGEMENTS ARE MADE.

This Fee Schedule is subject to periodic changes.

AGENDA BILL

AGENDA ITEM: 12a

AGENDA TITLE: Discussion of Oregon Department of Transportation Contract 2285-03

DATE: 12/30/2015

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: _____

INFORMATION: xx

EXPLANATION:

Contract 2285-02 is the agreement where the City agrees to pay the Oregon Department of Transportation (ODOT) \$4,650,000 from various sources. Of these sources \$200,000 was from non-interchange system development charges (SDC) and \$800,000 from SDC's collected from Home Depot. The rest of the funds will come from different SDC's and other government bodies. The City has paid \$734,819 towards the payment of the \$1,000,000 the city owes. Leaving the city owing \$265,181 that the City paid in a letter of credit. In Contract 766 the City agreed to take over the couplet area. In exchange \$400,000 was credited towards the \$4,650,000 and the City would receive \$270,000 in cash.

Contract 2285-03 would no longer require the city to pay the \$265,181 that the city holds in a line of credit to be paid to ODOT and ODOT would no longer pay the \$270,000 that the city is owed for taking over the couplet but would pay \$4,819 to the City the difference between the two amounts.

FISCAL IMPACT:

None

ALTERNATIVES:

Not change the contract and have each organization write the required check.

STAFF RECOMMENDATION:

MOTION: "I MOVE TO ."

PREPARED BY: Steve Dahl

REVIEWED BY: _____

**AMENDMENT NUMBER 03
INTERGOVERNMENTAL AGREEMENT
I-5: Fern Valley Interchange
Funding and Policy Agreement**

City of Phoenix

This is Amendment No. 03 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "State," and the **City of Phoenix**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into an Agreement on December 12, 2005 and Amendment Number 01 on January 11, 2012 and Amendment Number 02 on November 20, 2014.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to adjust funding, extend time and update contact.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

Revised Exhibit C shall be deleted in its entirety and replaced with the attached Revised Exhibit C-1. All references to "Revised Exhibit C" shall hereinafter be referred to as "Revised Exhibit C-1."

a. **TERMS OF AGREEMENT, Paragraph 2, Page 3, which reads:**

2. The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost of the Interchange improvements is \$70,270,000. Agency's contribution shall be limited to \$4,650,000 under this Agreement, as identified further on Revised Exhibit C, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of the Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.

Shall be deleted in its entirety and replaced with the following:

2. The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost of the Interchange improvements is \$70,270,000. Agency's contribution shall be limited to \$4,380,000 under this Agreement, as identified further on Revised Exhibit C-1, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of the Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.

b. TERMS OF AGREEMENT, Paragraph 3, Page 3, which reads:

3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Interchange improvements and final Agency payment or ten calendar years following the date all required signatures are obtained, whichever is sooner.

Shall be deleted in its entirety and replaced with the following:

3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Interchange improvements and final Agency payment or twenty calendar years following the date all required signatures are obtained, whichever is sooner.

c. TERMS OF AGREEMENT, Paragraph 1, Subsection a, which reads:

- a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State a payment of \$1,000,000, comprised of \$800,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges. The payment shall be made no later than July 1, 2015.

Shall be deleted in its entirety and replaced with the following:

- a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State a payment of \$730,000, comprised of \$530,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges. The payment shall be made no later than July 1, 2016.

d. STATE FUNDING OBLIGATIONS, Paragraph 3, which reads:

3. State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99), when Jurisdictional Transfer Agreement No. 766 is executed. State shall provide funding in the amount of \$270,000 at Second Notification of the Fern Valley Interchange project for the overlay of the southbound lanes of the OR 99 Jurisdictional Transfer.

Shall be deleted in its entirety and replaced with the following:

3. State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99), when Jurisdictional Transfer Agreement No. 766 is executed. State shall provide funding in the amount of \$4,819 at Second Notification of the Fern Valley Interchange project for the overlay of the southbound lanes of the OR 99 Jurisdictional Transfer.

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Recipient certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2015-2018 Statewide Transportation Improvement Program (STIP), (Key #12723) that was adopted by the Oregon Transportation Commission on December 18, 2014 (or subsequently by amendment to the STIP).

Signature Page to Follow

CITY OF PHOENIX, by and through its
elected officials

By _____

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Agency Counsel

Date _____

Agency Contact:

Steve Dahl
City Manager
112 W. 2nd Street
Phoenix, OR 97535
541-595-1955
sdahl@phoenixoregon.gov

State Contact:

Art Anderson
District 8 Area Manager
100 Antelope Road
White City, OR 97503
541-774-6353
Arthur.h.anderson@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____

Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____

State Traffic Engineer

Date _____

By _____

Region 3 Manager

Date _____

By _____

District 8 Area Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____

Assistant Attorney General

Date: _____

REVISED EXHIBIT C-1
AGREEMENT NO. 22485

Agency Contribution to the Interchange Improvements

- \$530,000 – Phoenix IDC – Anticipated to be generated from the Home Depot Development
- \$200,000 – Non-interchange related system development charges
- \$450,000 – Phoenix IDC – Anticipated to be generated from the property owner (developer) of Tax lot 2300, Township 38S, section 1W, Range 09A and Tax lots 200 and 202, Township 38S, Section 1W, Range 10, Willamette Meridian, Jackson County, Oregon.
- \$400,000 – Jurisdictional Transfer Agreement No. 766 – The transfer of a portion of OR 99 to Agency, funds credited to Agency by State
- \$1,800,000 – Phoenix IDC – Future development charges to be collected by Agency
- \$1,000,000 – Rogue Valley MPO contribution to the improvements on behalf of Agency (separated MPO agreement to be executed by State and MPO)

Total Agency Contribution: \$4,380,000

**AMENDMENT NUMBER 02
INTERGOVERNMENTAL AGREEMENT
I-5: Fern Valley Interchange
Funding and Policy Agreement
City of Phoenix**

The **STATE OF OREGON**, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the **CITY OF PHOENIX**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into an Agreement on December 9, 2005, and Amendment Number 01 on January 11, 2012. Said Agreement covers policy guidelines, land use policies and funding for the interchange improvements.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to increase funding, update language and funding obligations. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

DEFINITIONS, Paragraph 1, Page 2, which reads:

1. The Date of Second Notification is the date that, in accordance with Section 00180.50(g) of the 2002 Standard Specifications, the State Engineer acknowledges that all required construction work, including change order work and extra work, has been satisfactorily completed and, therefore, time charges stop for one or all of the completion times for the Interchange improvements.

Shall be deleted in its entirety and replaced with the following:

1. "Second Notification" means a written acknowledgment by the Engineer or Project Manager that according to 00180.50(g) of the Oregon Standard Specifications for Construction, all on-site work is complete. Second Notification also establishes the end of time for completing the bid item work under the contract and lists remaining requirements for the contractor to complete prior to Third Notification.

Insert new DEFINITION, Paragraph 2, to read as follows:

2. "Third Notification" means written acknowledgement by the Engineer or Project Manager, subject to Final Acceptance, that as of the date of the notification the contractor has completed the project according to the contract, including without limitation completion of all minor corrective work, equipment and plant removal, site clean-up and submittal of all certifications, bills, forms and documents required under the contract.

TERMS OF AGREEMENT, Paragraph 2, Page 3, which reads:

2. The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost for the Interchange improvements is \$70,000,000. Agency's contribution shall be limited to \$4,650,000 under this Agreement, as identified further on Revised Exhibit C, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of the Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.

Agency/State
Agreement No. 22485-02

Shall be deleted in its entirety and replaced with the following:

2. The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost of the Interchange improvements is \$70,270,000. Agency's contribution shall be limited to \$4,650,000 under this Agreement, as identified further on Revised Exhibit C, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of the Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.

AGENCY FUNDING OBLIGATIONS, Paragraph 1, Subsection a, Page 3, which reads:

- a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State a payment of \$1,000,000, comprised of \$800,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges. The payment shall be made no later than eight weeks prior to advertisement to bid for the Interchange improvements contract.

Shall be deleted in its entirety and replaced with the following:

- a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State a payment of \$1,000,000, comprised of \$800,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges. The payment shall be made no later than July 1, 2015.

STATE FUNDING OBLIGATIONS, Paragraph 3, Page 5, which reads:

3. State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99), when Jurisdictional Transfer Agreement No. 766 is executed. State shall fund and construct the overlay work for the southbound lanes of OR 99.

Shall be deleted in its entirety and replaced with the following:

3. State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99), when Jurisdictional Transfer Agreement No. 766 is executed. State shall provide funding in the amount of \$270,000 at Second Notification of the Fern Valley Interchange project for the overlay of the southbound lanes of the OR 99 Jurisdictional Transfer.

This Amendment may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Agency/State
Agreement No. 22485-02

This Project is in the 2012-2016 Statewide Transportation Improvement Program. (Key #12723) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

**CITY OF PHOENIX, by and through its
elected officials**

By J. Bellal - Mayor

Date 11-13-2014

By Paul S. G. Councilman

Date 11-13-2014

**APPROVED AS TO LEGAL
SUFFICIENCY**

By William C. Kuehler
Agency Counsel

Date 11-13-14

Agency Contact:

Steve Dahl
City Manager
112 W 2nd Street
Phoenix, OR 97535
541-595-1955
sdahl@phoenixoregon.gov

State Contact:

Richard Randleman
Project Leader
100 Antelope road
White City, OR 97503
541-884-8828
Richard.randleman@odot.state.or.us

**STATE OF OREGON, by and through
its Department of Transportation**

By [Signature]
Highway Division Administrator

Date 11/20/14

APPROVAL RECOMMENDED

By [Signature]
Technical Services Manager/Chief
Engineer

Date 11/18/14

By [Signature]
State Traffic Engineer

Date 11-17-14

By [Signature]
Region 3 Manager

Date 11-17-14

By [Signature]
Rogue Valley Area Manager

Date 11-14-14

By [Signature]
Region 3 Planning Manager

Date 11-14-2014

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Approved Via Email Bonnie Heltsch
Assistant Attorney General

Date: October 15, 2014

AMENDMENT NUMBER 01

**INTERGOVERNMENTAL AGREEMENT
I-5: Fern Valley Interchange
Funding and Policy Agreement
City of Phoenix**

The **STATE OF OREGON**, acting by and through its Department of Transportation, hereinafter referred to as "State," and the **CITY OF PHOENIX**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into an Agreement on December 12, 2005. Said Agreement covers land use policies and funding for interchange improvements.

It has now been determined by State and Agency that the Agreement referenced above, shall be amended to update language and increase funding. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

Exhibit C shall be deleted in its entirety and replaced with the attached Revised Exhibit C. All references to "Exhibit C" shall be replaced with "Revised Exhibit C."

TERMS OF AGREEMENT, Paragraph 2, Page 3, which reads:

The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost of the Interchange improvements is \$45,000,000. Agency's contribution shall be limited to \$4,700,000 under this Agreement, as identified further on Exhibit C, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of the Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.

Shall be deleted in its entirety and replaced with the following:

The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost of the Interchange improvements is \$70,000,000. Agency's contribution shall be limited to \$4,650,000 under this Agreement, as identified further on Revised Exhibit C, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of the Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.

AGENCY FUNDING OBLIGATIONS, Paragraph 1, Page 3, which reads:

In consideration of State's design and construction of the Interchange improvements, Agency agrees to the following:

- a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State Agency's contribution for the Interchange improvements as outlined in the following schedule:
 - i. No later than 8 weeks prior to advertisement to bid for the Interchange improvements contract, Agency shall forward to State \$1,000,000, comprised of \$800,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges.
 - ii. No later than one month after second notification has been issued for the Interchange improvements or upon issuance of building permits for the property described as Taxlot 200, Township 38S, Section 1W, Range 09A and Taxlots 200 and 300 Township 38S, Section 1W, Range 10, Willamette Meridian, Jackson County, Oregon, whichever is sooner, Agency shall forward to State \$500,000 in Agency funds from the PIDC.
- b. State shall credit \$400,000 towards Agency's contribution for the transfer of a portion of the Rogue Valley Highway from State's jurisdiction to Agency's jurisdiction, as described in Jurisdictional Transfer number 766.
- c. Agency has identified an additional \$1,800,000 in future PIDC's within the Agency's jurisdiction. Agency shall identify, in writing, State as the first priority of payment of these future PIDC funds for the ten years following the execution of this Agreement or until the \$1,800,000 Agency contribution is fulfilled, whatever occurs first. If the Agency's \$1,800,000 is not fully paid within ten years of execution of this Agreement, the balance shall be due and payable at that time. In order to meet the obligation, Agency may elect to obtain a loan from the Oregon Transportation Infrastructure Bank (OTIB), related solely to Agency's collection of PIDC funds. Said loan will be disbursed to State for any remaining Agency's contribution due under this Agreement.
- d. Rogue Valley Metropolitan Planning Organization (RVMPO) shall contribute \$1,000,000 in RVMPO funds as a portion of Agency's contribution no later than eight weeks prior to advertisement to bid for the Interchange improvements contract. Said funds shall be paid to State by RVMPO, on behalf of Agency. A

Agency/State
Agreement No. 22485

separate agreement shall be executed with RVMPO addressing this portion of Agency's contribution.

Shall be deleted in its entirety and replaced with the following:

In consideration of State's design and construction of the Interchange improvements, Agency agrees to the following:

- a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State a payment of \$1,000,000, comprised of \$800,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges. The payment shall be made no later than eight weeks prior to advertisement to bid for the Interchange improvements contract.
- b. State shall credit \$400,000 towards Agency's contribution for the transfer of a portion of the Rogue Valley Highway from State's jurisdiction to Agency's jurisdiction, as described in Jurisdictional Transfer No. 766.
- c. Agency has identified an additional \$2,250,000 in future PIDC within Agency's jurisdiction. Agency shall transfer to State, on an annual basis, funds collected in PIDC for each fiscal year until either (1) the \$2,250,000 Agency contribution is met, or (2) full build-out of the area within the trip cap overlay as adopted by the City of Phoenix occurs, whichever occurs first. Agency shall make annual payments, less ten percent of the PIDC to cover costs for Agency's administration of the PIDC program.
- d. Rogue Valley Metropolitan Planning Organization (RVMPO) shall contribute \$1,000,000 divided into three payments, each due on October 1 of that year. Said funds shall be paid to State by RVMPO, on behalf of Agency. A separate agreement shall be executed with RVMPO addressing this portion of Agency's contribution.

AGENCY FUNDING OBLIGATIONS, Paragraph 2, Page 4, which reads:

Agency shall install temporary traffic signals at the intersection of Fern Valley Road and North Phoenix Road and at the intersection of North Phoenix Road and the entrance to the property development located on Taxlot 200, Township 38S, Section 1W, Range 09A and Taxlots 200 and 300 Township 38S, Section 1W, Range 10, Willamette Meridian, Jackson County, Oregon. The temporary signals shall be installed and operational prior to Agency issuing a certificate of occupancy for any development located at the properties mentioned above. Agency shall be responsible for the installation, ongoing maintenance and electrical energy charges for the temporary signals. The temporary signals shall remain in operation until replaced by a permanent

Agency/State
Agreement No. 22485

traffic signal(s), which shall be installed by State as part of the Interchange improvements.

Shall be deleted in its entirety and replaced with the following:

Agency shall install temporary traffic signals at the intersection of Fern Valley Road and North Phoenix Road and at the intersection of North Phoenix Road and the entrance to the property development located on Tax lot 2300, Township 38S, Range 1W, Section 09A and Tax lots 200 and 202, Township 38S, Range 1W, Section 10, Willamette Meridian, Jackson County, Oregon. The temporary signals shall be installed and operational prior to Agency issuing a certificate of occupancy for any development located at the properties mentioned above. Agency shall be responsible for the installation, ongoing maintenance and electrical energy charges for the temporary signals. The temporary signals shall remain in operation until replaced by a permanent traffic signal(s), which shall be installed by State as part of the Interchange improvements.

STATE FUNDING OBLIGATIONS, paragraph 3, page 5, which reads:

State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99), when Jurisdictional Transfer Agreement No. 766 is executed.

Shall be deleted in its entirety and replaced with the following:

State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99), when Jurisdictional Transfer Agreement No. 766 is executed. State shall fund and construct the overlay work for the southbound lanes of OR 99.

Insert new STATE FUNDING OBLIGATIONS, paragraph 6, to read as follows:

In the event that Agency's decision to adopt the trip budget ordinance for the Fern Valley Road/OR-99 intersection is challenged to the Land Use Board of Appeals (LUBA), State shall take actions to intervene and participate in the proceeding.

Insert new STATE POLICY OBLIGATIONS, paragraph 5, to read as follows:

During the design phase of the Fern Valley Interchange (Key Number 12723) project, State shall seek review and comment from Agency for project design according to the

Agency/State
Agreement No. 22485

following milestones: Preliminary or Progress Plans at seventy percent completion, Advanced Plans at ninety percent completion and Final Plans at 100 percent completion.

GENERAL PROVISIONS, Paragraph 4, Page 7, which reads:

Agency acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

Shall be deleted in its entirety and replaced with the following:

Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives will have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six years after final payment, or completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

GENERAL PROVISIONS, Paragraph 7, Pages 7 and 8, which reads:

All employers, including State and Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. State and Agency shall ensure that each of its subcontractors complies with these requirements.

Shall be deleted in its entirety and replaced with the following:

All employers, including State and Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. State and Agency shall ensure that each of its subcontractors complies with these requirements.

Insert new GENERAL PROVISIONS, Paragraphs 10 through 13, to read as follows:

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law,

Agency/State
Agreement No. 22485

including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

This Amendment may be executed in several counterparts (facsimile or otherwise) all of which when together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

THE PARTIES, by execution of this Amendment, hereby acknowledge that each Party has read this Amendment, understands it, and agrees to be bound by its terms and conditions.

This Project is amended into the 2008-2011 Statewide Transportation Improvement Program, (Key #12723) that was approved by the Oregon Transportation Commission on December 16, 2010 (or subsequently approved by amendment to the STIP).

Agency/State
Agreement No. 22485

CITY OF PHOENIX, by and through its
elected officials

By *Carla S. Bittner Mayor*
Date 11-3-11

By *Diana M. Nelson*
Date 11/4/11

**APPROVED AS TO LEGAL
SUFFICIENCY**

By *[Signature]*
Agency Counsel
Date 11-8-11

**APPROVED AS TO LEGAL
SUFFICIENCY**

By *Kathy A. Lucey*
Assistant Attorney General
Date: 1/5/12

Agency Contact:

Jane Turner
City of Phoenix
510 W. First Street
Phoenix, OR 97435
(541) 535-1955
jane@phoenixoregon.gov

State Contact:

Jay Harris, ODOT Region 3 HQ
3500 NW Stewart Pkwy
Roseburg, OR 97470
(541) 957-3510
Jay.HARRIS@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Highway Division Administrator
Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Manager/Chief
Engineer
By *[Signature]*
State Traffic Engineer

Date JAN 09, 2012

By *[Signature]*
Region 3 Manager

Date 1/5/12

By *[Signature]*
Rogue Valley Area Manager

Date 12-21-11

By *[Signature]*
Region 3 Planning Manager

Date 12-19-11

Agency/State
Agreement No. 22485

REVISED EXHIBIT C

AGREEMENT NO. 22485

Agency Contribution to the Interchange Improvements

- \$800,000 – Phoenix IDC – Anticipated to be generated from the Home Depot Development
- \$200,000 – Non-interchange related system development charges
- \$450,000 – Phoenix IDC – Anticipated to be generated from the property owner (developer) of Tax lot 2300, Township 38S, Section 1W, Range 09A and Tax lots 200 and 202, Township 38S, Section 1W, Range 10, Willamette Meridian, Jackson County, Oregon
- \$400,000 – Jurisdictional Transfer Agreement No. 766 – The transfer of a portion of OR 99 to Agency, funds credited to Agency by State
- \$1,800,000 – Phoenix IDC – Future development charges to be collected by Agency
- \$1,000,000 – Rogue Valley MPO contribution to the improvements on behalf of Agency (separate MPO agreement to be executed by State and MPO)

Total Agency Contribution: \$4,650,000

INTERGOVERNMENTAL AGREEMENT
I-5: Fern Valley Interchange
Funding and Policy Agreement
City of Phoenix

Misc. contracts &
agreements no. _____

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and the CITY OF PHOENIX, acting by and through its elected officials, hereinafter referred to as "Agency", referred to collectively as "Parties".

RECITALS

1. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. Pacific Highway (I-5) is under the jurisdiction and control of the Oregon Transportation Commission (OTC).
4. State and Agency are conducting an Environmental Assessment (EA) of the Fern Valley Interchange (Interchange) as described in Agreement Number 20539, hereinafter referred to as study. The study is evaluating current and proposed traffic impacts to the transportation system and considering impacts on land use patterns and the local street network, considering impacts on local businesses, major institutions, public facilities and historic resources, and analyzing natural, social, economic and environmental impacts, including the management of land use impacts on communities and natural resources. The results of the EA will be an alternative for a new interchange near, or at, the existing interchange. A map of the study area is attached as Exhibit "A", and by this reference made a part hereof.
5. The Interchange serves as the main link between the I-5 corridor and the City of Phoenix. It is being put under pressure by continuing growth in Phoenix and southeast Medford. State has identified the Fern Valley Interchange Project (Interchange improvements), Key No. 12723, to solve the continued growth problem. The Interchange improvements include widening and possible realigning of Fern Valley Road from Highway 99 to North Phoenix Road. The Interchange

improvements will add capacity on Fern Valley Road, and provide safe pedestrian and bicycle movements.

6. In December 2004, State appealed a decision by Agency to rezone property in the vicinity of the Interchange and allow certain commercial construction. The appeal is pending before the Land Use Board of Appeals (LUBA), case number 2004-217.
7. The OTC has established rules and policies in its State Agency Coordination Program (SAC), OAR 731-015-0005 *et seq.*, to ensure that State land use programs are carried out in compliance with statewide planning goals and in a manner compatible with acknowledged comprehensive plans as required by ORS 197.180 and OAR 660, Division 30. These policies identify procedures for coordination of land use issues with the development of transportation projects.
8. By the authority granted in ORS 184.618, the OTC can develop comprehensive long-range plans for State's highway system that encompass economic efficiency, orderly development and environmental quality.
9. The OTC adopted the Oregon Highway Plan (OHP) in 1999, which includes policies for the development of major improvements to highway facilities. Those policies require:
 - a. Planning for Interchange Management Areas to protect the function of interchanges and to provide safe and efficient operations between connecting roadways and to minimize the need for major improvements to interchanges;
 - b. Partnerships with local governments to address highway performance and safety needs prior to adding new facilities to the system; and
 - c. Local and state policy coordination involving land use, local street patterns, access control, design characteristics and jurisdictional transfer to maintain and enhance the utility of state highway investment in an interchange facility.
10. The OTC has adopted OAR 734-051-0285, which defines the process and requirements for the development of an Interchange Area Management Plan (IAMP) as part of interchange modernization projects.

DEFINITIONS

1. The Date of Second Notification is the date that, in accordance with Section 00180.50(g) of the 2002 Standard Specifications, the State Engineer acknowledges that all required construction work, including change order work and extra work, has been satisfactorily completed and, therefore, time charges stop for one or all of the completion times for the Interchange improvements.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to establish policy guidelines for the Interchange improvements and for land use within the impacted area of the Interchange improvements, hereinafter referred to as Policy Project. State and Agency agree to the terms and conditions of Agency's contribution to the funding for the Interchange improvements, hereinafter referred to as Agency contribution.
2. The Interchange improvements will be funded with a combination of federal, state and Agency funds. The estimated cost of the Interchange improvements is \$45,000,000. Agency's contribution shall be limited to \$4,700,000 under this Agreement, as identified further on Exhibit C, attached hereto and by this reference made a part hereof. State shall be responsible for all costs of Policy Project and all costs for the Interchange improvements which are in excess of Agency's contribution.
3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Interchange improvements and final Agency payment or ten calendar years following the date all required signatures are obtained, whichever is sooner.

I. AGENCY CONTRIBUTION

AGENCY FUNDING OBLIGATIONS

1. In consideration of State's design and construction of the Interchange improvements, Agency agrees to the following:
 - a. Agency shall, upon receipt of a fully executed copy of this Agreement and letter of request from State, forward to State Agency's contribution for the Interchange improvements as outlined in the following schedule:
 - i. No later than 8 weeks prior to advertisement to bid for the Interchange improvements contract, Agency shall forward to State \$1,000,000, comprised of \$800,000 from the Phoenix Interchange Development Charges (PIDC) and \$200,000 from non-interchange System Development Charges.
 - ii. No later than one month after second notification has been issued for the Interchange improvements or upon issuance of building permits for the property described as Taxlot 200, Township 38S, Section 1W, Range 09A and Taxlots 200 and 300 Township 38S, Section 1W, Range 10, Willamette

Agency/State
Agreement No. 22485

Meridian, Jackson County, Oregon, whichever is sooner, Agency shall forward to State \$500,000 in Agency funds from the PIDC.

- b. State shall credit \$400,000 towards Agency's contribution for the transfer of a portion of the Rogue Valley Highway from State's jurisdiction to Agency's jurisdiction, as described in Jurisdictional Transfer number 766.
 - c. Agency has identified an additional \$1,800,000 in future PIDC's within the Agency's jurisdiction. Agency shall identify, in writing, State as the first priority of payment of these future PIDC funds for the ten years following the execution of this Agreement or until the \$1,800,000 Agency contribution is fulfilled, whatever occurs first. If the Agency's \$1,800,000 is not fully paid within ten years of execution of this Agreement, the balance shall be due and payable at that time. In order to meet the obligation, Agency may elect to obtain a loan from the Oregon Transportation Infrastructure Bank (OTIB), related solely to Agency's collection of PIDC funds. Said loan will be disbursed to State for any remaining Agency's contribution due under this Agreement.
 - d. Rogue Valley Metropolitan Planning Organization (RVMPO) shall contribute \$1,000,000 in RVMPO funds as a portion of Agency's contribution no later than eight weeks prior to advertisement to bid for the Interchange improvements contract. Said funds shall be paid to State by RVMPO, on behalf of Agency. A separate agreement shall be executed with RVMPO addressing this portion of Agency's contribution.
2. Pending the results of a traffic investigation, Agency shall ensure the installation of temporary traffic signals at the intersection of Fern Valley Road and North Phoenix Road and at the intersection of North Phoenix Road and the entrance to the property development located on Taxlot 200, Township 38S, Section 1W, Range 09A and Taxlots 200 and 300 Township 38S, Section 1W, Range 10, Willamette Meridian, Jackson County, Oregon. The temporary signals shall be installed only if shown to be warranted and are subsequently approved by the State Traffic Engineer. The temporary signals shall be installed and operational prior to Agency issuing a certificate of occupancy for any development located at the properties mentioned above. Agency shall be responsible for the installation, ongoing maintenance and electrical energy charges for the temporary signals. The temporary signals shall remain in operation until replaced by a permanent traffic signal(s), which shall be installed by State as part of the Interchange improvements, if shown to meet signal warrants.

STATE FUNDING OBLIGATIONS

1. State shall upon execution of this Agreement, forward to Agency a letter of request for payment of Agency's contribution in accordance with the schedule outlined in Agency Contribution Obligation, Paragraph 1a.

Agency/State
Agreement No. 22485

2. State shall deliver to Agency statements each month which shall identify 100 percent of State's costs for the Interchange Improvements incurred to date. Upon completion of the Interchange Improvements, State shall provide an itemized statement of the total costs of the Interchange Improvements.
3. State shall credit \$400,000 to Agency as consideration for Agency accepting jurisdiction of a portion of the Rogue Valley Highway (OR 99) when Jurisdictional Transfer Agreement No. 766 is executed.
4. State shall collect an additional \$1,800,000 from Agency as outlined in Agency Funding Obligations, Paragraph 1c. In the event Agency is unable to uphold their funding obligation through PIDC funds or an OTIB loan, State reserves the right to withhold a proportional amount of Agency's future Surface Transportation Program funds until the obligation is fulfilled.
5. Pending a traffic investigation, and only if shown to be warranted and approved by the State Traffic Engineer, State shall install, at its own expense, a permanent traffic signal(s), which shall replace the temporary signals indicated in Agency Funding Obligations, paragraph 2, as part of the Interchange Improvements.

II. POLICY PROJECT

AGENCY POLICY OBLIGATIONS

1. Agency shall jointly prepare with State an Interchange Area Management Plan (IAMP) for the Fern Valley Interchange improvements. The IAMP will be prepared in conformance with the 1999 Oregon Highway Plan (OHP), Policy 3C and OAR 734-0051-0010 and 734-0051-0285 and will be completed prior to advertisement for the Interchange improvements (Key No. 12723). It shall include analysis of the relationships between existing local land uses, zoning and long range plans and the state and local roadway network within the study area around the existing Interchange, and shall identify necessary improvements to approach roads and the local street network to support the long-term safety and efficiency of the Interchange. State and Agency shall use the data generated from the IAMP for determination of future land use actions and development applications within the boundary of the IAMP. The IAMP shall be funded by State in its entirety as part of the Interchange improvements.
2. Agency agrees to conduct public hearings as needed to adopt the IAMP into Agency's existing Transportation System Plan (TSP). Upon adoption, Agency and State agree to use the IAMP to evaluate land use actions and development applications within the boundaries of the IAMP.
3. Agency agrees to implement the "*City of Phoenix Concurrency Policy Memo*", dated November 24, 2004, attached hereto as Exhibit B and by this reference made part hereof, for all future land use actions within the Agency's UGB.

Agency/State
Agreement No. 22485

4. Agency council shall pass a resolution authorizing the Mayor or City Administrator to enter into this Agreement on behalf of the Agency.
5. Agency's Project Manager for this Agreement is the City Planning Director, City of Phoenix, 510 W. First Street, Phoenix, OR 97535, (541) 535-1955.

STATE POLICY OBLIGATIONS

1. State shall jointly prepare with Agency an IAMP for the Interchange improvements. The IAMP will be prepared in conformance with the 1999 Oregon Highway Plan (OHP), Policy 3C and OAR 734-0051-0010 and 734-0051-0285 and will be completed prior to advertisement for the Interchange improvements (Key No. 12723). It shall include analysis of the relationships between existing local land uses, zoning and long range plans and the state and local roadway network within the study area around the existing Interchange, and shall identify necessary improvements to approach roads and the local street network to support the long-term safety and efficiency of the Interchange. State and Agency shall use the data generated from the IAMP for determination of future land use actions and development applications within the boundary of the IAMP. The IAMP shall be funded by State in its entirety as part of the Interchange improvements.
2. State shall initiate a review of the IAMP for adoption by the OTC as a facility plan and a part of the OHP after Agency adopts the IAMP into their existing TSP.
3. Upon execution of this Agreement, but no later than December 31, 2005, State agrees to petition the OTC for the dismissal of State's LUBA appeal, case number 2004-217.
4. State's project manager for this Agreement is Rogue Valley Area Manager, 100 Antelope Road, White City OR, 97503, (541) 774-6353.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written

Agency/State
Agreement No. 22485

notice from State fails to correct such failures within 10 days or such longer period as State may authorize.

- c. If Agency fails to provide payment of its share of the cost of the Interchange improvements.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
 4. Agency acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
 5. Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, both parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
 6. Both parties shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
 7. All employers, including State and Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and

provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. State and Agency shall ensure that each of its subcontractors complies with these requirements.

8. If Agency fails to maintain the temporary signals in accordance with the terms of this Agreement, State, at its option, may maintain the facility and bill Agency, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law. State shall make every effort to notify Agency prior to performing any maintenance of the signals.
9. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. State and Agency shall also enter into Jurisdictional Transfer Agreement No. 766 which details the transfer of a portion of the Rogue Valley Highway and provides funding for this Agreement. There are no other understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

This Project is in the 2004-2007 Statewide Transportation Improvement Program (STIP), (Key number 12723) that was approved by the Oregon Transportation Commission on November 17, 2003.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

Signature Page to Follow

Agency/State
Agreement No. 22485

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

CITY OF PHOENIX, by and through its
elected officials

By Mayor Vicki G. Bean

Date November 8, 2005

By Betsy Smith

Date November 8, 2005

**APPROVED AS TO LEGAL
SUFFICIENCY**

By [Signature]
Counsel

Date 11-17-05

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Kathy G. Lincoln
Assistant Attorney General

Date: 12/6/05

Agency Contact:
City of Phoenix
Attn: City Recorder
510 W. First Street
Phoenix, OR 97435

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
Deputy Director, Highways

Date 12/23/05

APPROVAL RECOMMENDED

By [Signature] 12-9-05
Technical Services Manager/Chief
Engineer

By [Signature]
State Traffic Engineer

Date 12/9/05

By [Signature]
Region 3 Manager

Date 11/23/05

By [Signature]
Southwest Area Manager
Rogue Valley

Date 11-22-05

By [Signature]
Region 3 Planning Manager

Date 11/22/05



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
Region 3, District 8 Office
200 Antelope Road
White City, OR 97503
Telephone (541) 774-6399
FAX (541) 774-6349
David.PYLES@odot.state.or.us

EXHIBIT B – City of Phoenix CONCURRENCY Policy Memo

TO: ODOT Region 3

FROM: David Pyles, Reg.3/Dist 8 Development Review Planner

DATE: November 24, 2004

SUBJECT: City of Phoenix – CITY CODE & TRANSPORTATION CONCURRENCY

The following statements are taken from the City of Phoenix Comprehensive Plan, Zoning Ordinance, and Transportation System Plan (TSP), concerning concurrency requirements for land use/transportation development. These concurrency policy statements are for use on the Home Depot mixed-use development project, proposed within the northeast quadrant of the Interstate-5 / Fern Valley Road Interchange (I-5 Exit #24). Red text indicates key City concurrency language.

CITY PROCEDURAL REQUIREMENTS

- **10.205 – Zone Change Criteria.** The approving authority shall approve a quasi-judicial [Type II] zone change if it finds that the request complies with all of the following criteria:
 1. The change is consistent with the Comprehensive Plan's Goals, Policies, and Land Use Map.
 2. **Urban services and facilities are available to adequately serve the property, or will be made upon development.**
 3. Other zone change criteria included in the City's Zoning Ordinance and Comprehensive Plan.

CITY FACILITIES & CONCURRENCY POLICY (Phoenix Comprehensive Plan [PCP] - Economic Element, as amended March 1998):

- **Goal 4:** Designate lands within the I5 interchange area to provide services and goods for the traveling public as well as business locations serving the community and the region.
- **Policy 4.1:** Ensure the list of permitted and conditional uses within the Interchange Business zoning district is consistent with the purpose of the Plan designation and Goal 4.
- **Policy 4.1a:** Develop performance standards for the Interchange Business zoning district to ensure uses locating in the interchange area are of a scale, function, and character appropriate to the interchange and inappropriate within the City Center.

- **Policy 4.2:** Within the Fern Valley Road Interchange area (including all lands east of Bear Creek Bridge within the UGB) any annexation, zone change, or change of existing uses which is expected to significantly increase travel demand in the interchange area must be predicated upon facts (supported by special traffic studies) and findings that sufficient capacity exists or will be available upon completion of funded improvement(s) to satisfy the proposed development's travel demand (including background traffic) concurrent with its opening.
- **Policy 4.3:** The Fern Valley Interchange and Fern Valley Road within the City's UGB are regionally significant transportation facilities. Developments occurring outside of the interchange area (in Southeast Medford and rural Jackson County) have the potential to exhaust the interchange's remaining unused capacity. The transportation impacts of Southwest Medford and Jackson County developments, like those of development within the interchange area, should also be offset by improvements, when necessary, to ensure 'sufficient capacity' in the interchange area and ensure the protection of the public's health, safety, and general welfare. The City shall endeavor to: 1) secure regional support for interchange improvements, and 2) participate in any land use action that will 'significantly increase travel demand' in the interchange area.

TRANSPORTATION ELEMENT (PCP, October 1999)

- "The concept of transportation balance and the land use connection is pertinent to virtually every area within the community" (PCP – Trans. Element, 1999: p. 21).
- "Needs are defined as either deficiencies or failures of the current transportation system based upon existing or forecast travel demand. The needs are categorized as safety, geometrics, operations, maintenance, or modal....A deficiency arises when the transportation system does not operate efficiently" (PCP – Trans. Element, 1999: p. 23).
- Oregon Transportation Plan Policy 1.B, Efficiency, states: 'It is the policy of the State of Oregon to assure provision of an efficient transportation system. The system is efficient when (1) it is fast and economic for the user; (2) users face prices that reflect the full costs of their transportation choices, and (3) transportation investment decisions maximize the net benefits of the system. (Full benefits and costs include social and environmental impacts, as well as the benefits of mobility to users, and construction, operations and maintenance.)'¹⁴ It is this context in which transportation needs should be considered. (PCP – Trans. Element, 1999: p. 23).
- **Truck Mode:** "In the immediate vicinity of the interchange on Fern Valley Road, trucks represent approximately 20 percent of average daily traffic. These volumes are considered high but not atypical. Usually, trucks account for three to five percent of average daily traffic on arterial streets. The truck stop in the immediate vicinity of the interchange attracts as estimated ninety-five percent of the total truck volumes. Their presence creates congestion that can be especially pronounced on winter days when the Siskiyou Summit on Interstate 5 is closed."

Chapter 9 – Modal Plans and Policies:

- **Goal 1:** The City shall ensure that the TSP is consistent with the Rogue Valley Metropolitan Planning Organization's Regional Transportation Plan.
- **Goal 2:** The City shall coordinate its transportation decision-making with other land use planning decisions and with public agencies providing transportation services or facilities.
- **Goal 3:** Utilize the volume to capacity standards specified in Table 4-3 to determine transportation facility adequacy.
 - **Policy 3.1 – Manage the transportation systems and pursue facility improvements consistent with the specified performance standards.**
 - **Policy 3.2 – Actively pursue, as signal warrants are met, timely implementation of all TSM projects listed in Table 9-1. [E.g., Signals at Fern Valley Interchange east and west ramp terminals, Fern Valley and Luman Rd., and Fern Valley and North Phoenix Rd.]**
- **Goal 5:** Preserve the function and value of transportation facilities consistent with their classification [via Access Management strategies].
- **Goal 11:** Ensure that the cost for construction, reconstruction, and maintenance is distributed to the individual household or transportation consumer, general public, new development, Jackson County, and State, consistent with the benefits of the project.

Please contact me if you have questions, or require additional information – (541) 774-6399.

Agency/State
Agreement No. 22485

**EXHIBIT C
AGREEMENT NO. 22485**

City of Phoenix Contribution to the Interchange Improvements:

- \$800,000 – Phoenix IDC – Anticipated to be generated from the Home Depot Development
- \$200,000 – Non interchange related system development charges
- \$500,000 – Phoenix IDC – Anticipated to be generated from the property owner (developer) of Taxlot 200, Township 38S, Section 1W, Range 09A and Taxlots 200 and 300 Township 38S, Section 1W, Range 10, Willamette Meridian, Jackson County, Oregon
- \$400,000 – Jurisdictional Transfer Agreement No. 766 – The transfer of a portion of Hwy 99 to the City of Phoenix, funds credited to Agency by State
- \$1,800,000 – Phoenix IDC – Future development charges to be collected by Agency
- \$1,000,000 – Rogue Valley Metropolitan Planning Organization contribution to the improvements on behalf of Agency

Total Agency Contribution: \$4,700,000

AGENDA BILL

AGENDA ITEM: 12b

AGENDA TITLE: Approval of a Liquor License for Iron Skillet

DATE: 01/04/2016

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

Petro/Iron Skillet would like to have a liquor license for its restaurant.

FISCAL IMPACT:

None

ALTERNATIVES:

Not to approve the license.

STAFF RECOMMENDATION:

To approve the license.

MOTION: "I MOVE TO ." approve the liquor license application for Petro/Iron Skillet

PREPARED BY: Steve Dahl REVIEWED BY: _____



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES

Full On-Premises Sales (\$402.60/yr)

Commercial Establishment

Caterer

Passenger Carrier

Other Public Location

Private Club

Limited On-Premises Sales (\$202.60/yr)

Off-Premises Sales (\$100/yr)

with Fuel Pumps

Brewery Public House (\$252.60)

Winery (\$250/yr)

Other: _____

ACTIONS

Change Ownership

New Outlet

Greater Privilege

Additional Privilege

Other _____

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

Limited Partnership

Corporation

Limited Liability Company

Individuals

MASTER FILE

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission: _____

(name of city or county)

recommends that this license be:

Granted Denied

By: _____

(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: _____

Date: 12/10/15

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① TA Operating, LLC ③ _____

② _____ ④ _____
2. Trade Name (dba): Petro Stopping Centers IRON SKILLET
3. Business Location: 3730 Fern Valley Road, Phoenix, Jackson, OR 97535
(number, street, rural route) (city) (county) (state) (ZIP code)
4. Business Mailing Address: Two Newton Place, 255 Washington Street, Suite 300 Newton, MA 02458
(PO box, number, street, rural route) (city) (state) (ZIP code)
5. Business Numbers: (541) 535-3372 (541) 512-3041
(phone) (fax)
6. Is the business at this location currently licensed by OLCC? Yes No
7. If yes to whom: TA Operating LLC Type of License: Off-Premises Sales
8. Former Business Name: N/A
9. Will you have a manager? Yes No Name: Wilma Jean McConahie
(manager must fill out an Individual History form)
10. What is the local governing body where your business is located? Phoenix
(name of city or county)
11. Contact person for this application: Adena M. Santiago, Buchman Law Firm, LLP 732-986-9862
(name) (phone number(s))
510 Thornall Street, Suite 200, Edison, NJ 08837 732-632-8760 asantiago@buchmanlaw.com
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

TA Operating LLC by: Mark R. Young, Exec. VP, General Counsel

① _____ Date 10/27/15 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____

APPLICANT



OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE

411467-96

2/5/07-2/5/16

Please Print or Type

LLC Name: TA Operating LLC Year Filed: 1993

Trade Name (dba): Petro Stopping Centers / IRON SKILLET

Business Location Address: 3730 Fern Valley Road

City: Phoenix ZIP Code: 97504

List Members of LLC:

Percentage of Membership Interest:

1. TravelCenters of America Holding Company, LLC
(~~owner~~ member)

100%

2. SEE ATTACHED LLC OFFICER LIST
(members)

3. _____

4. _____

5. _____

6. _____

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: Wilma J. McConahie DOB: 04/30/1958

I understand that if my answers are not true and complete, the OLCC may deny my license application.

TA Operating LLC by: Mark R. Young, Exec. VP & General Counsel

Signature:  (name) Mark R. Young Date: 10/27/15

(title)
Executive Vice President
and General Counsel

1-800-452-OLCC (6522)

www.olcc.state.or.us

(rev. 8/11)

AGENDA BILL

AGENDA ITEM: 12C

AGENDA TITLE: A Resolution allowing a budget increase pursuant to ORS 294.326(3) providing for the receipt and expenditure of Unexpected Monies for FY 2015-2016 (Insurance Proceeds).

DATE: December 29, 2015

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: XX

MOTION: _____

INFORMATION: _____

EXPLANATION:

On July 17, 2015, a police vehicle was involved in an accident and later determined to be totaled. The City received a check from CityCounty Insurance Services (CIS) in the amount of \$34,159.64 which is to cover the replacement cost of the totaled vehicle and equipment.

Attached is a Resolution increasing the budget pursuant to ORS 294.326(3) providing for the receipt and expenditure of the insurance proceeds.

FISCAL IMPACT:

\$34,159.64 Increase Revenue

\$34,159.64 Increase Expenditure

ALTERNATIVES:

None offered.

STAFF RECOMMENDATION:

Staff recommends that Council approve the Resolution allowing a budget increase for the receipt and expenditure of unexpected monies in FY 2015-2016.

MOTION: "I MOVE TO ADOPT RESOLUTION NO. _____, ALLOWING A BUDGET INCREASE PURSUANT TO ORS 294.326(3) PROVIDING FOR THE RECEIPT AND EXPENDITURE OF UNEXPECTED MONIES FOR FISCAL YEAR 2015-2016."

PREPARED BY: Steve Weber REVIEWED BY: _____

CITY OF PHOENIX
PHOENIX, OREGON

RESOLUTION NO. ____

A RESOLUTION ALLOWING A BUDGET INCREASE PURSUANT TO ORS 294.326 (3), PROVIDING FOR THE RECEIPT AND EXPENDITURE OF UNANTICIPATED MONIES IN FISCAL YEAR 2015-2016.

WHEREAS, the City of Phoenix, received \$34,159.64 from CityCounty Insurance Services (CIS) as total loss settlement for a police patrol vehicle that was involved in an accident on July 17, 2015; and

WHEREAS, the City of Phoenix would like to use the proceeds to replace the patrol vehicle; and

WHEREAS, this revenue was unanticipated when the fiscal year 2014-2015 budget was adopted; and

WHEREAS, ORS 294.326 (3) allows budget increases after the adoption of the budget by providing for the expenditure of gifts, grants, bequests or devises transferred to a municipal corporation for specific purposes; now therefore

BE IT RESOLVED, by the City Council of Phoenix, Oregon, to appropriate the unanticipated \$39,159.64 to the following budget line items.

<u>GENERAL FUND</u>	<u>ADOPTED</u>	<u>INCREASE/ DECREASE</u>	<u>AS AMENDED</u>
Revenue:			
Miscellaneous	\$5,315	\$34,160	\$39,295
Expenditure:			
Capital Outlay - Vehicles:	-0-	\$34,160	\$34,160

PASSED AND ADOPTED by the City Council of the City of Phoenix, Oregon, on the 4th day of January, 2016, and signed by me in authentication thereof.

Jeff Bellah, Mayor

ATTEST:

Janette Boothe, City Recorder

AGENDA BILL

AGENDA ITEM: 12d

AGENDA TITLE: Discussion on Organizational Chart changes

DATE: 1/04/2016

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: _____

INFORMATION: xx

EXPLANATION:

At the December 7th Council meeting the Council was presented with a City Organizational Chart that included unfilled positions that were listed in the Union Contracts. The Council at that time asked the City Manager to suggest the positions that were no longer needed within the City.

The next two pages shows the original organizational chart and the organizational chart with the suggested changes. All the jobs except two, the code enforcement officer and a fourth utility worker are filled. All other jobs are removed.

The Council can accept the changes or suggest other changes. If the Council would like to have the positions removed from the Union Contract, the City can send a letter to ask for the removal or it can wait until the Union Contracts are open again and have it take place as part of the negotiation process.

FISCAL IMPACT:

None

ALTERNATIVES:

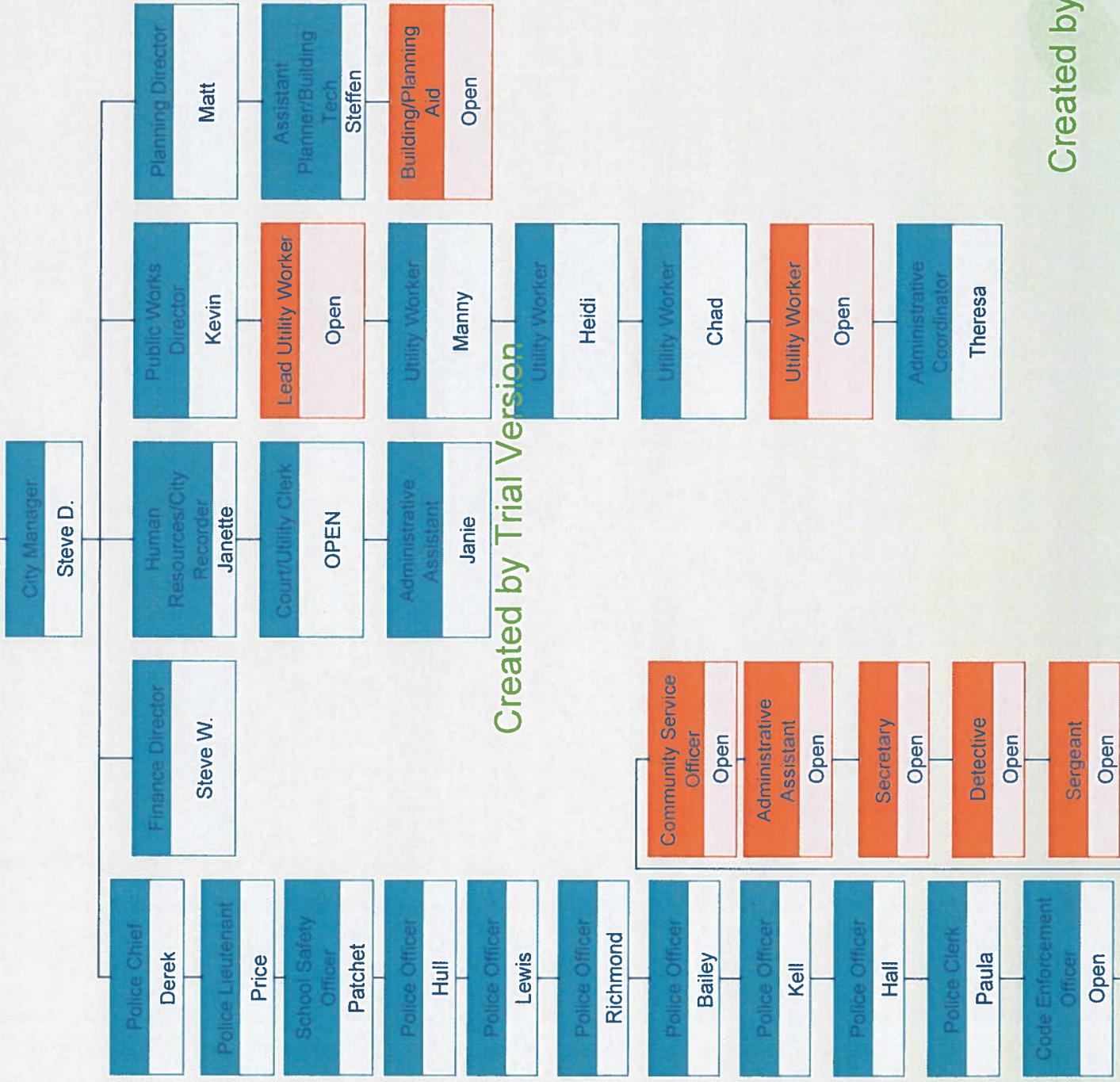
STAFF RECOMMENDATION:

MOTION: "I MOVE TO ."

PREPARED BY: Steve Dahl REVIEWED BY: _____

POLICE CHIEF* (Derek)	FINANCE DIRECTOR* (Steve)	CITY COUNCIL	
POLICE LUTENANT* (Price)		CITY MANAGER* (Steve)	
SCHOOL SAFETY OFFICER* (Patchett)		HUMAN RESOURCES/CITY RECORDER* (Janette)	PUBLIC WORKS SUPERINTENDENT* (Kevin)
POLICE OFFICER* (Hull)		ADMINISTRATIVE ASSISTANT (Janie)	UTILITY WORKER* (Matty)
POLICE OFFICER* (Lewis)			UTILITY WORKER* (Heidi)
POLICE OFFICER* (Richmond)			UTILITY WORKER* (Chad)
POLICE OFFICER* (Bailey)			UTILITY WORKER (Open)
POLICE OFFICER* (Kell)			PW ADMINISTRATIVE ASSISTANT* (Theresa)
POLICE OFFICER* (Hall)			
POLICE CLERK* (Paula)			
CODE ENFORCEMENT OFFICER* (open)			

Code Enforcement and One
Utility Worker are open that I
would like to fill



Created by Trial Version

Position In
Budget

Created by Trial Version