



Agenda

Work Study and Possible Executive Session Queen Creek Town Council

Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
November 20, 2013
5:30pm

1. Call to Order

2. Roll Call (one or more members of the Council may participate by telephone)

3. Motion to adjourn to Executive Session (to be held in the Saguaro Conference Room of the Municipal Services Building)for the following purposes:

A. Discussion and consultation with the Town's attorney for legal advice and to consider the Town's position and instruct its attorney and representatives regarding a development agreement that is the subject of negotiations related to Vestar and Harkins. A.R.S. § 38-431.03(A)(3) and (4).

B. Discussion and consultation for legal advice with the Town Attorney and to consider the Town's position and instruct the Town attorney and staff regarding possible amendments to the Town's agreement with the Queen Creek Chamber of Commerce. A.R.S. 38-431.03(A)(3) and (4).

C. Discussion and consultations with the Town staff to consider the Town's position and instruct the staff regarding a possible exchange of real property with the Catholic Diocese A.R.S. 38-431.03(A)(7).

ITEMS FOR DISCUSSION These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

4. Presentation by ASU on the Town's mobile application.

5. Discussion on School Resource Officer (SRO) Program.

TAB I

6. Update on the Town's 25th Anniversary events and logo.

7. Adjournment



Agenda
Regular and Possible Executive Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
November 20, 2013
7:00 p.m.

1. Call to Order

2. Roll Call (one or more members of the Council may participate by telephone)

3. Pledge of Allegiance: Eagle Scout Moses James Hansen

4. Invocation:

5. Ceremonial Matters: Presentations, Proclamations, Awards, Guest Introductions and Announcements.

A. Eagles Scout Recognition – Moses James Hansen

6. Committee Reports

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

C. Town Center Committee – November 13, 2013

7. Public Comment: Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a "Request to Speak Card", located on the table at the rear of the Council Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

**Agenda for the Regular and Possible Executive Session
Queen Creek Town Council
November 20, 2013
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8. Consent Calendar: Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of the October 16, 2013 Work Study and Regular Session minutes. **TAB A**

B. Consideration and possible approval of expenditures over \$25,000: **TAB B**
1. Chapman Ford – 2014 Ford Explorer (Public Works Fleet): \$28,250 (*Budgeted in FY13/14*)
2. Town of Gilbert – IGA for Fire support services: \$100,000 (*Budgeted in FY13/14*)

C. Consideration and possible approval of the appointment of Cliff Bartholomew and Derek Neighbors to the Economic Development Commission. **TAB C**

D. Consideration and possible approval of a Permanent Extension of Premises Application submitted by Mark Schnepf on behalf of Schnepf Farms, 22601 E. Cloud Rd., for festivals and other events held at Schnepf Farms. The farm has a current liquor license #07070502. (*Continued from the November 6, 2013 Council meeting*) **TAB D**

*E. Public Hearing and possible approval of a Series #09 (License #0907008) Liquor License Location Transfer application submitted by Kim Kwiatkowski on behalf of Circle K Stores, Inc. The application is to transfer the current Series #09 Liquor Store License from Discount Beverage Outlet #5289 (owned by Circle K Stores, Inc.) 22005 S. Ellsworth Road to Circle K Store #8593, 21895 S. Ellsworth Road. **TAB E**

PUBLIC HEARINGS: If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

None.

FINAL ACTION: If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Discussion and possible approval of **Resolution 970-13** approving the Development Agreement between the Town and VPQCM, LLC (Vestar). **TAB F**

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10. Discussion and possible approval of **Resolution 969-13** and **Ordinance 539-13** amending the Town Code Chapter 7, Article 1 “Administration” and Article 2 “Amendments”; adopting new building construction codes and standards by repeal of existing Article 1 and Article 2 and adoption of new Articles; repealing all ordinances of the Town of Queen Creek in conflict therewith and setting an effective date. **TAB G**

11. Discussion and possible action on the Council annual retreat action plan concerning annexation evaluation of certain portions of the Town’s planning area.

12. Discussion and possible action on proposed amendments to the Standard Form By-laws for Committees, Boards and/or Commissions. **TAB H**

ITEMS FOR DISCUSSION: These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

13. Discussion on the School Resource Officer (SRO) Program. **TAB I**

14. Discussion on organizational succession planning.

15. Discussion on the 2014-2019 Corporate Strategic Plan. **TAB J**

16. Update on the Town’s 25th Anniversary events and logo.

17. Motion to adjourn to Executive Session: The Council may reconvene the Executive Session for any of the items listed on the Work Study Executive Session Agenda.

18. Adjournment



Minutes
Work Study Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
October 16, 2013
5:30pm

1. Call to Order

The meeting was called to order at 5:30p.m.

2. Roll Call (one or more members of the Council may participate by telephone)

Council Members present: Barnes; Benning; Brown; Gad; Wheatley; Vice Mayor Oliphant (telephonically) and Mayor Barney.

(Vice Mayor Oliphant arrived in Council Chambers at 6:00p.m.)

3. Motion to adjourn to Executive Session (to be held in the Saguaro Conference Room of the Municipal Services Building)for the following purposes:

A. Discussion and consultation with the Town Attorney for legal advice and with the Town staff to consider the Town's position and instruct its attorney and staff regarding a possible lease agreement with Migdalia Drury for Town-owned property located at 22249 S. Ellsworth Road. ARS 38-431.03(A)(3), (4) and (7)

B. Discussion and consultation with the Town Attorney for legal advice regarding state and local regulation of political signs. ARS 38-431.03(A)(3)

C. Discussion and consultation with the Town's attorneys for legal advice and to consider the Town's position and instruct its attorneys regarding litigation (Town of Queen Creek v. National Reined Cow Horse Association) including the terms of a possible settlement of such litigation. A.R.S. 38-431.03(A)(3) and (4)

Motion to adjourn to Executive Session at 5:31p.m:

1st: Benning

2nd: Wheatley

VOTE: Unanimous

The Work Study Session reconvened at 5:53p.m.

ITEMS FOR DISCUSSION These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

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Queen Creek Town Council
October 16, 2013
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4. Update and discussion on recent changes in the Development Services Department including the land use, building and development engineering programs.

Development Services Director Chris Anaradian gave a presentation that highlighted the changes within the department that customers would see & experience as part of the Council authorization of 12 additional positions and contracted services.

5. Update and discussion on the H2O Water Utility acquisition, interconnecting the two water systems and the long-term water master plan.

Utilities Director Paul Gardner provided an update on the status of merging the service areas of H2O Water Utility; the outreach program to H2O customers; customer service improvements and hiring of three customer service representatives and additional field water technicians.

Council asked if a satellite payment office would be available. Mr. Gardner stated that it was considered but the existing office facility wasn't included in the sale.

Mr. Gardner added that an engineering master plan would be presented at a future meeting.

6. Adjournment

The meeting adjourned at 6:40p.m.



Minutes
Regular Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
October 16, 2013
7:00 p.m.

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Roll Call (one or more members of the Council may participate by telephone)

Council Members present: Barnes; Benning; Brown; Gad; Wheatley; Vice Mayor Oliphant and Mayor Barney.

3. Pledge of Allegiance: Led by Mayor Barney

4. Invocation: A moment of silence was held.

5. Ceremonial Matters: Presentations, Proclamations, Awards, Guest Introductions and Announcements.

A. Proclamation – Arizona Cities and Towns Week

6. Committee Reports

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

Council Member Brown reported on the October 13, 2013 East Valley Partnership Board meeting. State School Superintendent John Huppenthal and Representative Justin Pierce (LD-25) gave a presentation on the Common Core program.

Mayor Barney reported on the following meetings/events:

Maricopa Association of Governments Economic Development Committee – October 8, 2013: Presentations were given on several programs including “Go Build Arizona Initiative”, digital technology and impacts on education and work force in underserved areas, and “Tallwave” a venture development firm. The next meeting is November 5, 2013.

Day of Play and Pan de Vida Health, Social and Community Fair – October 12, 2013.

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Phoenix-Mesa Gateway Airport Authority Board of Directors meeting – October 14, 2013: The Board approved several contracts and heard a presentation from Allegiant on the impacts of the federal shutdown. The next meeting is November 18, 2013.

Maricopa Association of Governments Executive Committee meeting – October 15, 2013: The Committee, acting as the Regional Community Partners Board of Directors, accepted a grant award of \$145,504 to support aging services planning. The Committee also approved two contracts to conduct surveys on regional transportation. The next meeting is November 18, 2013.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

None.

B1. Queen Creek Chamber of Commerce – 1st Quarter Report

Charlie Deaton, acting President of the Queen Creek Chamber of Commerce, discussed the importance of the relationship between a municipality and Chamber of Commerce. He provided an update on the recruitment of a new Director; and statistics on membership, annual awards dinner and ribbon cuttings.

C. Parks and Recreation Advisory Committee – September 24, 2013

Council Member Wheatley reported on the September 10 & 24, 2013 Committee meetings. At the September 10th meeting, presentations were given by the Little League Baseball & Softball organizations on the 2013 season; the FY13/14 Work Plan was discussed and updates were given by Development Services Director Chris Anaradian and Recreation Superintendent Adam Robinson. At the September 24th meeting, the FY13/14 Work Plan was approved. The next meeting is November 12, 2013.

D. Transportation Advisory Committee – October 10, 2013

Council Member Benning reported on the October 10th Committee meeting. Valley Metro gave a presentation on community travel survey results; Town staff gave a presentation on the alignment alternatives for Ocotillo Road from Ellsworth Lp. to Heritage Lp. Roads; and staff provided several updates on local and regional transportation projects. The next meeting is November 14, 2013.

7. Public Comment: Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a “Request to Speak Card”, located on the table at the rear of the Council Chambers and turn it in to

**Minutes for the Regular Session
Queen Creek Town Council
October 16, 2013
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the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

None.

8. Consent Calendar: Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of the October 2, 2013 Town Council meeting minutes.

B. Consideration and possible approval of expenditures over \$25,000:

1. Valmont Industries – traffic signal poles/hardware: \$25,861 (*Budgeted in FY13/14*)
2. Vertech Industrial Systems – SCADA support: \$35,000 (*Budgeted in FY13/14*)
3. Horine Electrical Service – as-needed services: \$250,000 (*Budgeted in FY13/14*)

C. Consideration and possible approval of **Resolution 961-13** authorizing and directing staff to take all actions necessary to acquire interest in real and/or personal property, located at the south side of Rittenhouse Road from Sossaman Road east to and including Canyon State Academy, through gift, purchase or eminent domain; identifying the interest in real and/or personal property as necessary for right-of-way for the Rittenhouse Road Phase II Improvement project. (Portions of parcels: 304-61-032T; 304-61-039B; 304-61-039A; 304-61-034B; 304-62-016D; 304-66-010D; and 304-66-010M)

D. Consideration and possible approval of a lease agreement with Verizon Wireless, LLC for a renewable five-year lease of premises located at Founders Park for a cellular tower and equipment compound.

E. Consideration and possible approval of the 2nd Amendment to the Orange Screen Service Agreement, in the amount not to exceed \$50,000 for the acquisition, installation and service for new and additional technologies for Council Chambers. (*Budgeted in FY13/14*)

F. Consideration and possible approval of an Extension of Premises Application submitted by Tom Estabrook on behalf of Skippy's Grille & Cantina, 23858 S. Power Rd., #101 (Basha's Shopping Center) for a cornhole tournament to be held October 18 & 19, 2013. The restaurant has a current liquor license #12077549.

G. Consideration and possible approval of an Extension of Premises Application submitted by Mark Schnepf on behalf of Schnepf Farms, 22601 E. Cloud Rd., for the Banzai Challenge event to be held November 2-4, 2013. The farm has a current liquor license #07070502.

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H. Consideration and possible approval of the re-appointment of Dru Alberti, Daniel Babcock, Adam Neville, Michael Shirley and Sylvia Tarin to the Parks and Recreation Advisory Committee (PRAC).

Motion to approve the Consent Calendar as presented:

1st: Brown

2nd: Gad

VOTE: Unanimous

PUBLIC HEARINGS: If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

None.

FINAL ACTION: If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Discussion and possible approval of a Professional Services Contract with EPS Group, in the amount not to exceed \$539,000 for the design of Ocotillo Road from Power to Recker Roads. (*Budgeted in FY13/14*)

Public Works Division Manager Troy White discussed the history of the intergovernmental agreement (IGA) with the Town of Gilbert regarding boundaries between Queen Creek and Gilbert along Recker and Ocotillo Road and responsibilities of each jurisdiction for roadway improvements. The Town's responsibility includes Recker Road from Ocotillo Road to Brooks Farm Road and Ocotillo Road from Power to Recker Roads. Mr. White explained that the Trilogy development on the north side of Ocotillo Road developed and the Town of Gilbert collected \$2 million cash-in-lieu for ½ street improvements from the developer on behalf of Queen Creek to be used when Ocotillo Road was improved.

Mr. White continued with his presentation that with development now occurring south of Ocotillo Road (Dorada Estates) and in Gilbert to the west of Recker Road, now is the time to move forward with the design of Ocotillo Road. Mr. White reiterated that the proposed professional services contract with EPS Group, is for design of the road only and will include interim improvement and permanent improvement design. He added that additional construction funding sources need to be identified since the cost difference between 2001 (Trilogy development) and today's costs are much different. Also, there will be expenses for the box culvert at Sonoqui Wash, irrigation relocation and signal costs at the Ocotillo and Power Roads intersection.

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Mr. White provided details on the proposed improvements and budgeting in future years to complete the full street improvements and the design and construction schedules.

Council asked for more information on the proposed interim ½ street improvement design landscaping and sidewalks. Town Manager Kross added that full street improvements need to go through the capital improvement program (CIP) process.

Motion to approve a professional services contract with EPS Group in an amount not to exceed \$539,000 for the design of Ocotillo Road from Power to Recker Roads:

1st: Barnes

2nd: Benning

VOTE: Unanimous

10. Discussion and possible approval to authorize the use \$60,000 in FY13/14 Drainage & Transportation Revenue to fund staffing service needs in the Capital Improvement Program.

Public Works Division Manager Troy White reviewed the request for additional staffing to accommodate CIP projects including Ellsworth Road improvements, Ocotillo Road improvements and sewer projects. He explained that the construction phase of projects is the longest and most time intensive for project management. Mr. White also stated that the costs include salary & benefits for the remainder of FY13/14 and full costs will be included in the FY14/15 budget.

Motion to approve the use \$60,000 in FY13/14 Drainage & Transportation Revenue to fund staffing service needs in the Capital Improvement Program:

1st: Benning

2nd: Oliphant

VOTE: Unanimous

ITEMS FOR DISCUSSION: These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

11. Update and discussion on recent changes in the Development Services Department including the land use, building and development engineering programs. *(If necessary)*

No further discussion.

12. Update and discussion on the H2O Water Utility acquisition, interconnecting the two water systems and the long-term water master plan. *(If necessary)*

No further discussion.

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13. Motion to adjourn to Executive Session: The Council may reconvene the Executive Session for any of the items listed on the Work Study Executive Session Agenda.

None.

14. Adjournment

The meeting was adjourned at 8:04p.m.



Requesting
Department:
Management Services

TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

FROM: CANDACE VIS, PURCHASING OFFICE

RE: CONSIDERATION AND POSSIBLE APPROVAL OF EXPENDITURES \$25,000 AND OVER

DATE: November 20, 2013

Staff Recommendation:

Staff recommends approval of expenditures \$25,000 and over.

Proposed Motion:

Move to approve Town expenditures \$25,000 and over, pursuant to Town purchasing policy.

Discussion:

The following items being requested are:

1. 2014 Ford Explorer, base model
2. As needed Fire support services

See attachment for additional explanation on the above expenditures.

Fiscal Impact:

The fiscal impact of the requested spending authority for the above expenditures is \$128,250. Funds have been identified within their line item budgets as approved in the 2013-14 fiscal year budgets.

Alternatives:

1. Council could choose not to approve the expenditure and the Streets Superintendent could continue to drive the current vehicle. Continuing to use the current vehicle would result in higher repair costs, greater down time due to time in the shop, and decreased safety for staff and the public due to less visibility during emergencies and road closures.
2. Council could choose not to approve the expenditure, which could result in the inability to provide a necessary public safety service due to trucks and other

equipment being unable to function. The Town's Fleet department is not currently certified to repair fire apparatuses, so this could also result in higher costs for repairs since technicians must be certified. The IGA the Town has with Gilbert provides the Town with certified technicians to make repairs as well as parts with warranties.

Attachments:

A detailed list of the requested expenditures.

Attachment: Expenditure \$25,000 and over

For Fiscal Year 2014

November 20, 2013

Item #	Vendor	Description	Purpose	Requesting Dept	Fiscal Impact \$	Procurement Method
1	Chapman Ford	2014 Ford Explorer, base model	Replacement for truck #73 due to age, mileage, and annual repair cost. The new vehicle is a replacement vehicle for the Streets Superintendent. In addition to supervising contractors conducting road maintenance, the Streets Superintendent also is a first responder during storm events and also assists MCSO for emergency road clean-up during accidents. This vehicle will provide the necessary safety features and visibility needed to conduct road closures while responding to these events. Approved in FY 13/14 budget.	Public Works (Fleet)	\$28,250	Arizona State Contract #ADSP012-016662
2	Town of Gilbert	IGA for Fire support services	Fire support services that include the maintenance and repair of fire apparatuses and other as needed support services.	Fire Department	\$100,000	Town of Queen Creek Contract #2008-107

Requesting Department:
Economic Development



TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, AICP
TOWN MANAGER**

**FROM: DOREEN COTT
ECONOMIC DEVELOPMENT DIRECTOR**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF THE
APPOINTMENT OF CLIFF BARTHOLOMEW AND DEREK
NEIGHBORS TO THE ECONOMIC DEVELOPMENT
COMMISSION.**

DATE: NOVEMBER 20, 2013

Recommendation:

It is the Mayor's recommendation to appoint Cliff Bartholomew and Derek Neighbors to the Economic Development Commission.

Relevant Council Goal(s): Town of Queen Creek Corporate Strategic Plan – Key Result Area 2 Community Involvement.

Proposed Motion:

Move to appoint Cliff Bartholomew and Derek Neighbors to the Economic Development Commission to a two year term beginning on November 21, 2013 to the Economic Development Commission.

Discussion:

According to the adopted by-laws of the Economic Development Commission, Article IV, Section 1: All members of the Commission shall be residents of the State of Arizona. Article IV, Section 4: Term of Office states: *All voting Commission members shall be appointed to two (2) year terms. Commission members shall serve until their successors are duly appointed. Commission members shall serve staggered terms, where no more than seven (7) voting members' terms expire in any one (1) year.*

Staff recommends the appointment of both individuals based on their interest in serving the community. Cliff Bartholomew is Vice President of Commercial Lending at Unison Bank in Queen Creek and would like to be more involved in

the community that he works. Derek Neighbors is a Queen Creek resident and is also the founder and President of Gangplank in Chandler. Derek is very interested in helping entrepreneurs and small business owners to be successful.

Fiscal Impact:

There is no fiscal impact associated with making appointments to the Economic Development Commission.

Alternatives:

The Town Council could choose not to appoint the recommended individuals and request that staff present alternative appointments at the next Town Council meeting.

Attachments:

- Notice of Interest forms for the recommended appointments.



Received
FEB 06 2013

Town of Queen Creek

Town of Queen Creek Notice of Interest

The Town of Queen Creek depends on its citizens to help advance the community toward its goals. Residents can participate in local decision-making by serving on volunteer boards, commissions, committees and task forces. In most cases, volunteer members act in an advisory capacity making recommendations to the Town Council.

Appointments are made by approval of the Town Council. If you would like to be considered for an appointment, complete this form, attach a resume or letter about yourself and return all documents to:

Town of Queen Creek
Town Clerk's Office
22350 S. Ellsworth Road
Queen Creek, AZ 85142
Fax: 480-358-3001

Please type or print

Application Date: 2-5-13

Name: CLIFF LEE BARTHOLDMEW
First Middle Last

Home Address: 951 S. MEADOWS DRIVE CHANDLER 85224

Mailing Address (if different from home address): 20713 E OSVALDO RD.
SUITE 101 QUEEN CREEK AZ 85142

Occupation: V.P. BANKER (COMMERCIAL LENDER)

Home Telephone: 480 963-9480 Work Telephone: 480 396-1288

Best Time to Call: 8 to 11 a.m. or p.m.

Home Fax: _____ Work Fax: 480 888-9719

E-Mail Address: CBARTHOLDMEW@UNISONBANK.COM

How long have you lived in Queen Creek? OWN PROPERTY

Are you a registered voter? Yes No

Do you live within the Town's incorporated limits? Yes No

Have you participated in the Queen Creek Citizen Leadership Institute? Yes No

If yes, did you graduate? Yes No

Which boards, commissions, committees or task forces have you served on in the past, in Queen Creek or elsewhere? (TREASURER)

ARIZONA BUSINESS CONNECTION, ARIZONA
ASSOCIATION, VAUGHY BROS BROTHERS

I am interested in serving on: (Please rank the committees you are interested in, with 1 being your first choice.)

- Board of Adjustment
- Economic Development Commission
- Parks and Recreation Advisory Board
- Planning and Zoning Commission
- Town Center Committee
- Transportation Advisory Committee
- Other _____

*Note: Some citizen committees might be full at this time; indicated interest does not guarantee an appointment

Please describe why you would like to serve on this board, committee, commission, etc.

I WOULD LIKE TO PARTICIPATE & BE INVOLVED IN THE COMMUNITY THAT I WORK IN.

Please describe special knowledge or expertise you have that would benefit the Town.

I MAINTAINED & VOLUNTEERED WORK FOR 5 YEARS HELPING SMALL BUSINESSES GET BANK FINANCING.

Please list community, civic, professional, social, cultural or athletic organizations you have been affiliated with and in what capacity.

YOUNG LUTHERANS OF ARIZONA
QUINN CREEK CHAMBER OF COMMERCE, SUN DEVIL CLUB
ON PEEK CIRCLE.

Are you available for evening meetings? Yes No LIMITED

Are you available for morning meetings? Yes No


Are you available for lunch meetings? Yes No

Are there days of the week you are NOT available for meetings? (Check all that apply)

- Monday
- Tuesday
- Wednesday
- Thursday
- Friday

I hereby acknowledge that all information provided on this application is subject to disclosure pursuant to the Arizona Public Records Law. I understand that members of boards, commissions, committees and task forces are subject to disclosure of conflicts of interest. I certify that the information contained herein is true and accurate to the best of my knowledge.

Note: Notice of Interest forms will be kept on file for 12 months. After that, they will expire and applicant's will need to submit a new form.

Applicant's Signature 

FOR OFFICE USE ONLY	
Committee/Commission	_____
New Appointment <input type="checkbox"/>	Re-Appointment <input type="checkbox"/>
Date Appointed/Re-Appointed	_____
Term Expiration	_____
Date of Resignation (if applicable)	_____



Town of Queen Creek
Notice of Interest

The Town of Queen Creek depends on its citizens to help advance the community toward its goals. Residents can participate in local decision-making by serving on volunteer boards, commissions, committees and task forces. In most cases, volunteer members act in an advisory capacity making recommendations to the Town Council.

Appointments are made by approval of the Town Council. If you would like to be considered for an appointment, complete this form, attach a resume or letter about yourself and return all documents to:

Town of Queen Creek
 Town Clerk's Office
 22350 S. Ellsworth Road
 Queen Creek, AZ 85142
 Fax: 460-358-3001

Please type or print

Application Date: 10/13/2013

Name: DEREK ANTHONY NEIGHBORS
 First Middle Last

Home Address: 21469 E LORDS WAY, QUEEN CREEK 85142

Mailing Address (if different from home address): _____

Occupation: CONSULTANT

Home Telephone: 480 726 7753 Work Telephone: 480 335 9746

Best Time to Call: ANY a.m. or p.m.

Home Fax: _____ Work Fax: _____

E-Mail Address: DEREK@BANGLANKHO.COM

How long have you lived in Queen Creek? 7 YEARS

Are you a registered voter? Yes No

Do you live within the Town's incorporated limits? Yes No

Have you participated in the Queen Creek Citizen Leadership Institute? Yes No

If yes, did you graduate? Yes No

Which boards, commissions, committees or task forces have you served on in the past, in Queen Creek or elsewhere?

QUINTOWN CHANDLER COMMUNITY PARTNERSHIP (QCCP)
CHANDLER EDUCATION COALITION

I am interested in serving on: (Please rank the committees you are interested in, with 1 being your first choice.)

- Board of Adjustment
- 1 Economic Development Commission
- 5 Parks and Recreation Advisory Board
- 3 Planning and Zoning Commission
- 2 Town Center Committee
- 4 Transportation Advisory Committee
- Other _____

*Note: Some citizen committees might be full at this time; indicated interest does not guarantee an appointment.

Please describe why you would like to serve on this board, committee, commission, etc.

BACKGROUND IN ECONOMIC DEVELOPMENT AND PLACE
MARKET (ARIZONA RENEWAL) WANT TO INVEST IN OUR FUTURE

Please describe special knowledge or expertise you have that would benefit the Town.

EXPERIENCE IN ECONOMIC DEVELOPMENT AND
CONSTRUCTION OF AZ'S BIGGEST COMPANIES IN TOWN DYNAMICS

Please list community, civic, professional, social, cultural or athletic organizations you have been affiliated with and in what capacity.

ARIZONA SADDLE CLUB (FOUNDER/PAST PRESIDENT), CHANDLER CHRISTIAN
COMMUNITY CENTER (FUNCTIONAL CHAIR), DOWNTOWN COMMUNITY
PARTICIPANTS (PRESIDENT), GARDENING CONCERN (FOUNDER, PRESIDENT)

Are you available for evening meetings? Yes No (with appropriate notice)

Are you available for morning meetings? Yes No

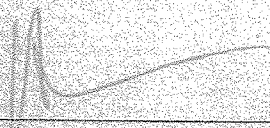
Are you available for lunch meetings? Yes No

Are there days of the week you are NOT available for meetings? (Check all that apply)

- Monday
- Tuesday
- Wednesday
- Thursday
- Friday

I hereby acknowledge that all information provided on this application is subject to disclosure pursuant to the Arizona Public Records Law. I understand that members of boards, commissions, committees and task forces are subject to disclosure of conflicts of interest. I certify that the information contained herein is true and accurate to the best of my knowledge

Note: Notice of Interest forms will be kept on file for 12 months. After that, they will expire and applicant's will need to submit a new form.

Applicant's Signature 

FOR OFFICE USE ONLY	
Committee/Commission	_____
New Appointment <input type="checkbox"/>	Re-Appointment <input type="checkbox"/>
Date Appointed/Re-Appointed	_____
Term Expiration	_____
Date of Resignation (if applicable)	_____

Requesting Department:

Town Clerk

TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

**FROM: Jennifer Robinson, Town Clerk
Fredda J. Bisman, Town Attorney**

**RE: Permanent Extension of Premises/Patio Permit (Liquor
License Application) –Schnepf Farms**

DATE: November 20, 2013 (Continued from November 6, 2013)

At the November 6, 2013 Council meeting a continuation was requested by staff to allow Maricopa County Sheriff's Office (MCSO) to conduct the site investigation and interview which has been completed.

Recommendation:

Staff recommends that the Town Council consider a recommendation of approval based on the application and the investigation results received from Maricopa County Sheriff's Office (MCSO).

At this time, no comments from the public have been received.

Proposed Motion:

Motion to forward a recommendation of approval to the Arizona Department of Liquor License and Control of the Permanent Extension of Premises/Patio Permit application on behalf of Farmhouse at Schnepf Farms (Mark Schnepf, owner).

Alternative Motions:

Motion to forward a recommendation of **denial** to the Arizona Department of Liquor License and Control for the application of Farmhouse at Schnepf Farms (Mark Schnepf, owner).

OR

Motion to make **No Recommendation** to the Arizona Department of Liquor License and Control for the application of Farmhouse at Schnepf Farms (Mark Schnepf, owner).

Discussion:

On October 16, 2013, the Council considered and approved a Temporary Extension of Premises application to allow the service of beer & wine at the Banzai Challenge event located on the farm property. The purpose of the Temporary Extension of Premises/Patio Permit was to allow the sale/serving of alcohol in the additional area outside of the licensed premises of the "Farmhouse" and the separate wedding/reception facility as shown on the application.

When Mr. Schnepf took the approved application to the Arizona Department of Liquor License & Control, they recommended that he submit a request for a Permanent Extension of Premises since the the area shown for the Temporary Extension for the Banzai Challenge was actually too far outside the boundaries from the restaurant and wedding/reception facility (licensed premises).

Mr. Schnepf submitted a new application for Permanent Extension of Premises for the area on the attached map which expands the boundaries of the covered premises of the current license to include the covered armadas, separate buildings and open area on the southern part of the Farm. The permanent extension would allow additional events to be held at Schnepf Farms without having to get approval for each separate event.

MCSO conducted a site assessment and recommends approval with the following condition:

1. In the area where the permanent extension is requested, alcohol sale and/or consumption will be confined to a controlled area that has been designated for that specific use (i.e. some sort of barrier will be erected, permanent or temporary, that will provide proper containment and control.

If Council recommends the Permanent Extension of Premises/Patio permit for approval, the application will then be submitted by the applicant to the Department of Liquor Licenses & Control for issuance.

Fiscal Impact:

Not applicable.

Alternatives:

Council could elect to forward a recommendation for denial or no recommendation to the Department of Liquor Licenses and Control for their consideration.

Attachments:

Permanent Extension Application

Temporary Extension map – approved by Council on Oct. 16, 2013

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

Date payment received _____
CSR Initials _____

APPLICATION FOR EXTENSION OF PREMISES/PATIO PERMIT

THIS APPLICATION MUST BE RETURNED TO THE DEPARTMENT OF LIQUOR

[X] Permanent change of area of service. A non-refundable \$50 fee will apply. Specific purpose for change: _____

To EXTEND THE PREMISES SO BEER & WINE CAN BE SOLD AT ~~AD~~ OTHER EVENTS

[] Temporary change for date(s) of: ___/___/___ through ___/___/___ List specific purpose for change: _____

- 1. Licensee's Name: SCHNEPP MARK EDWARD
2. Mailing Address: 22601 E. CLOUD RD QUEEN CREEK AZ 85142
3. Business Name: FARMHOUSE AT SCHNEPP FARMS LICENSE #: 07070502
4. Business Address: 22601 E. CLOUD RD QUEEN CREEK MARICOPA AZ 85142
5. Business Phone: (480) 987-3333 Residence Phone: (480) 283-4211
6. Do you understand Arizona Liquor Laws and Regulations? [X] YES [] NO Fax #: ()
7. Have you received approved Liquor Law Training? [] NO [X] YES If so, when does your Certificate expire? ___/___/___
8. What security precautions will be taken to prevent liquor violations in the extended area?
9. Does this extension bring your premises within 300 feet of a church or school? [] YES [X] NO
10. IMPORTANT: ATTACH THE REVISED FLOOR PLAN CLEARLY DEPICTING YOUR LICENSED PREMISES AND WHAT YOU PROPOSE TO ADD.

[] Barrier Exemption: an exception to the requirement of barriers surrounding a patio/outdoor serving area may be requested. Barrier exemptions are granted based on public safety, pedestrian traffic, and other factors unique to a licensed premises. List specific reasons for exemption: _____

Investigation Recommendation [] Approval [] Disapproval by: _____ Date: ___/___/___

****After completing sections 1-10, please take this application to your local Board of Supervisors, City Council or Designate for their recommendation. This recommendation is not binding on the Department of Liquor.

This change in premises is RECOMMENDED by the local Board of Supervisors, City Council or Designate:

(Authorized Signature)

(Title)

(Agency)

I, MARK SCHNEPP, being first duly sworn upon oath, hereby depose, swear and declare,

under penalty of perjury, that I am the APPLICANT in the foregoing application. I have read this application and the contents and all statements are true, correct and complete.

X [Signature] Notary Public, State of Arizona, County of Maricopa, My Commission Expires 04-18-2014

SUBSCRIBED IN MY PRESENCE AND SWORN TO before me this date 21 October 2013

[Signature] (Signature of NOTARY PUBLIC)

My commission expires on: 4/18/2014

Investigation Recommendation [] Approval [] Disapproval by: _____ Date: ___/___/___

Director Signature required for Disapprovals _____ Date: ___/___/___

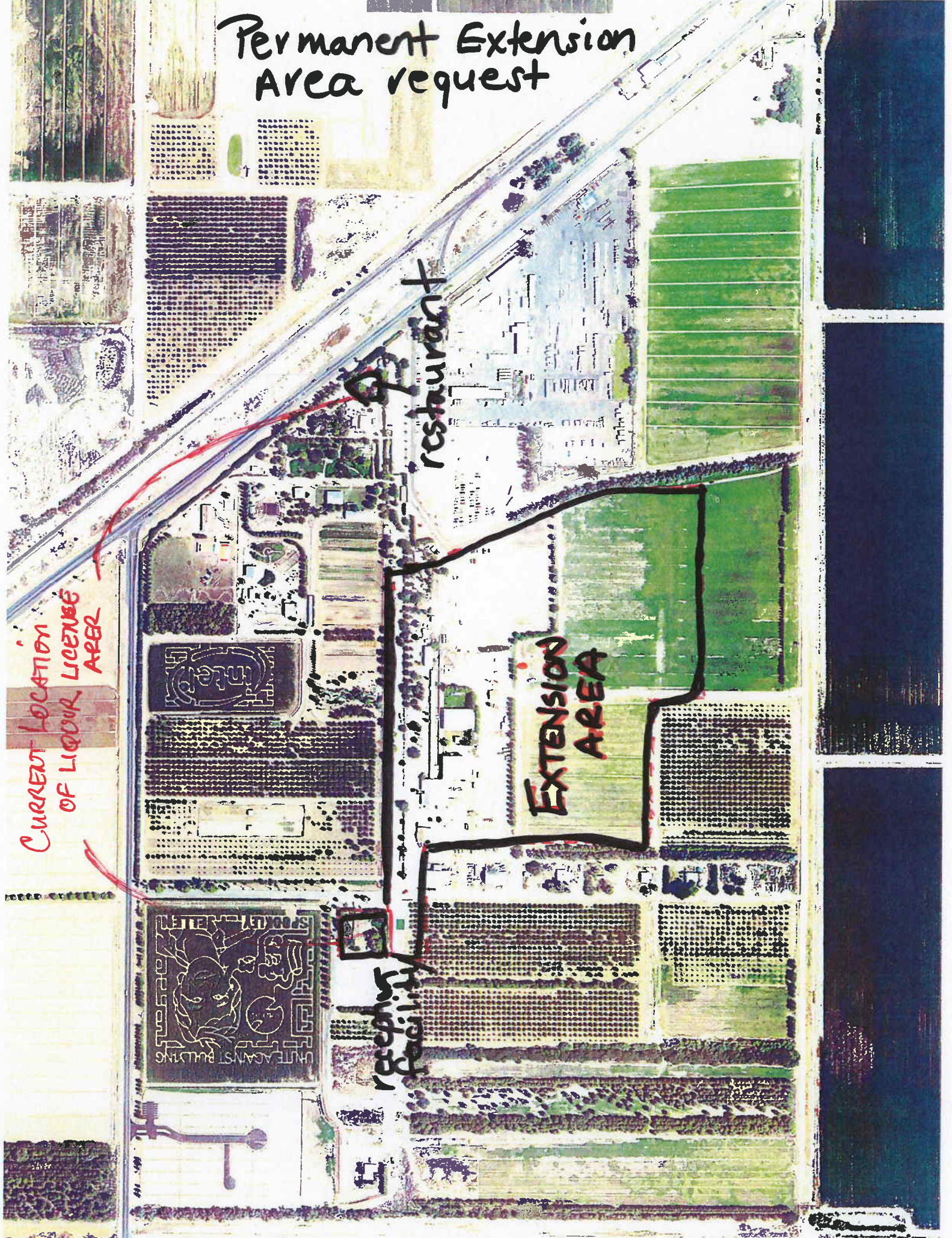
Permanent Extension Area request

CURRENT LOCATION OF LIQUOR LICENSE AREA

restaurant

EXTENSION AREA

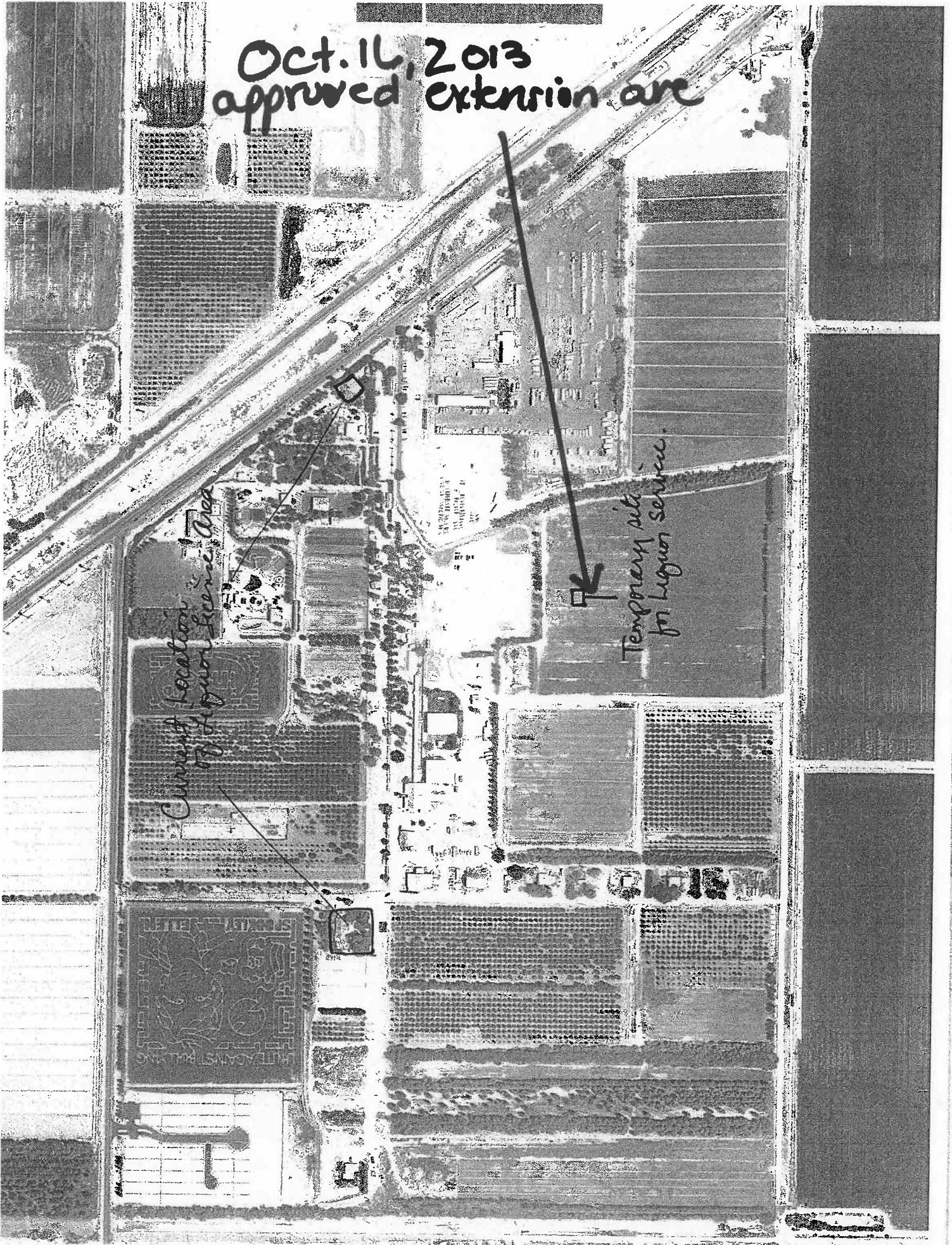
reception facility



Oct. 11, 2013
approved extension are

Current location
of liquor license Area

Temporary site
for liquor service



Requesting Department:

Town Clerk



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

**FROM: Jennifer Robinson, Town Clerk
Fredda J. Bisman, Town Attorney**

RE: Public Hearing and possible approval of a Series #09 (License #0907008) Liquor License Location Transfer application submitted by Kim Kwiatkowski on behalf of Circle K Stores, Inc. The application is to transfer the current Series #09 Liquor Store License from Discount Beverage Outlet #5289 (owned by Circle K Stores, Inc.) 22005 S. Ellsworth Road to Circle K Store #8593, 21895 S. Ellsworth Road.

DATE: November 20, 2013

Recommendation:

If a comment card is submitted to speak on this item, the Public Hearing will need to be opened.

Staff recommends that the Town Council consider a recommendation of approval based on the application and the investigation results received from Maricopa County Sheriff's Office (MCSO).

At this time, no comments from the public have been received.

Proposed Motion:

Motion to forward a recommendation of **approval** to the Arizona Department of Liquor License and Control for the Series #09 (License #0907008) Liquor License Location Transfer application submitted by Kim Kwiatkowski on behalf of Circle K Stores, Inc.

Alternative Motions:

Motion to forward a recommendation of **denial** to the Arizona Department of Liquor License and Control for the Series #09 (License #0907008) Liquor

License Location Transfer application submitted by Kim Kwiatkowski on behalf of Circle K Stores, Inc.

OR

Motion to forward **no recommendation** to the Arizona Department of Liquor License and Control for the Series #09 (License #0907008) Liquor License Location Transfer application submitted by Kim Kwiatkowski on behalf of Circle K Stores, Inc.

Discussion:

The Town Clerk's Office received a liquor license application for a Location Transfer of the existing Series #09 Liquor Store license held by Circle K Stores, Inc., (AKA) Discount Beverage Outlet, located at 22005 S. Ellsworth Rd. on October 17, 2013. The application was posted on the property on October 31, 2013 for the required 20 days. To date, no comments or protests from the public have been received.

Additional information was requested on the purpose of transferring the current Liquor Store #09 license from Discount Beverage Outlet to the Circle K store. Kim Kwiatkowski, agent for Circle K Stores, Inc., stated that Discount Beverage Outlet would be closed after the holidays and the request is to transfer the #09 Liquor Store license to the Circle K store as it has a #10 Beer & Wine store license. The second Circle K store location in Queen Creek (23447 S. Power Road has a #09 Liquor Store license).

This application was forwarded to Maricopa County Sheriff's Office for review and investigation and has been recommended for approval.

Fiscal Impact:

Not applicable.

Alternatives:

Council could elect to forward a recommendation for denial or no recommendation to the Department of Liquor Licenses and Control for their consideration.

Attachments:

Application

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

RECEIVED
 OCT 17 2013
 BT [Signature]

APPLICATION FOR LIQUOR LICENSE
 TYPE OR PRINT WITH BLACK INK

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

SECTION 1 This application is for a:

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

SECTION 2 Type of ownership:

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

SECTION 3 Type of license and fees LICENSE #(s): 09070008

1. Type of License(s): Liquor Store Department Use Only \$ _____
 2. Total fees attached: \$ _____

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

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

SECTION 4 Applicant

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

2. Corp./Partnership/L.L.C.: CIRCLE K STORES INC.
 (Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: CIRCLE K STORE # 8593
 (Exactly as it appears on the exterior of premises)

4. Principal Street Location: 21895 S Ellsworth Rd, Queen Creek, Maricopa, 85242
 (Do not use PO Box Number) City County Zip

5. Business Phone: 480-987-8795 Daytime Phone: 602-728-4783 Email: kkwiatkowski@circlek.com

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

7. Mailing Address: LICENSING DC-36, PO BOX 52085, PHOENIX, AZ 85072-2085
 City State Zip

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

DEPARTMENT USE ONLY

Fees: 100.00 Application Interim Permit Site Inspection Finger Prints \$ 100.00
TOTAL OF ALL FEES

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

Accepted by: [Signature] Date: 10/10/13 Lic. # 09070008

SECTION 5 Interim Permit:

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

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

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

State of _____ County of _____

X _____
(Signature)

The foregoing instrument was acknowledged before me this

My commission expires on: _____

_____ day of _____, _____
 Day Month Year

(Signature of NOTARY PUBLIC)

SECTION 6 Individual or Partnership Owners:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

1. Individual:

Last	First	Middle	% Owned	Mailing Address	City State Zip

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

General-Limited	Last	First	Middle	% Owned	Mailing Address	City State Zip
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						

) Y R A S S E C E N F I T

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

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

SECTION 7 Corporation/Limited Liability Co.:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

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

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

- Name of Corporation/L.L.C.: CIRCLE K STORES INC.
(Exactly as it appears on Articles of Incorporation or Articles of Organization)
- Date Incorporated/Organized: 06/08/1951 State where Incorporated/Organized: TEXAS
- AZ Corporation Commission File No.: F-0006598-0 Date authorized to do business in AZ: 04/08/1957
- AZ L.L.C. File No: NA Date authorized to do business in AZ: NA
- Is Corp./L.L.C. Non-profit? YES NO
- List all directors, officers and members in Corporation/L.L.C.:

Last	First	Middle	Title	Mailing Address	City State Zip
Hannasch	Brian	Patrick	Pres/Secr / Director	8815 West SE 46, Columbus, IN 47201	
Cunnington	Kathleen	K	Treas/VP / Director	14202 S 12th Place, Phoenix, AZ 85048	
Haxel	Geoffrey	Charles	SR VP/DIR	7849 E Vista Bonita Drive, Scottsdale, AZ 85255	
Kwiatkowski	Kim	Kenneth	Asst/Secr	7853 S Michele Lane, Tempe, AZ 85284	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

Last	First	Middle	% Owned	Mailing Address	City State Zip
CIRCLE K DELAWARE INC.			100%	1130 W WARNER RD, TEMPE, AZ 85284	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

SECTION 8 Club Applicants:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

- Name of Club: _____ Date Chartered: _____
(Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)

- Is club non-profit? YES NO

- List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

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

1. Current Business: (Exactly as it appears on license) Name Discount Beverage Outlet #5289 (Circle K Stores, Inc)
 Address 22005 S. Ellsworth Rd, Queen Creek, AZ 85242 Kim KENNETH Kwiatkowski
2. New Business: (Physical Street Location) Name Circle K Store #8593 (Circle K Stores, Inc)
 Address 21895 S. Ellsworth Rd, Queen Creek, AZ 85242 Kim Kenneth Kwiatkowski
3. License Type: LIQR STR License Number: 09070008
4. If more than one license to be transferred: License Type: N/A License Number: _____
5. What date do you plan to move? Open Approval What date do you plan to open? Currently Open with #10

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

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

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

1. Distance to nearest school: 4,250 ft. Name of school Desert Mountain Elementary
 Address 22301 S. Hawes Rd, Queen Creek, AZ 85142
 City, State, Zip _____
2. Distance to nearest church: 370 ft. Name of church Amadeo CHURCH
 Address 21805 S Ellsworth Rd, #102, Queen Creek, AZ 85142
 City, State, Zip _____
3. I am the: Lessee Sublessee Owner Purchaser (of premises)
4. If the premises is leased give lessors: Name N/A
 Address N/A
 City, State, Zip _____
- 4a. Monthly rental/lease rate \$ N/A What is the remaining length of the lease ___ yrs. ___ mos.
- 4b. What is the penalty if the lease is not fulfilled? \$ N/A or other _____
(give details - attach additional sheet if necessary)
5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 0
 Please list lenders you owe money to.

13 OCT 10 04P. Lic. M4 02

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip
WELLS FARGO BANK	ACCT	4123020786	<u>0</u>	333 S GRAND AVE., 12TH FLOOR, LOS ANGELES, CA		90071

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

SECTION 13 - continued

- 7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?
 YES NO If yes, attach explanation.
- 8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business? YES NO
- 9. Is the premises currently licensed with a liquor license? YES NO If yes, give license number and licensee's name:

License # 10071514 (exactly as it appears on license) Name Circle K Store #893 (Circle K Stores Inc.)
Kim Kenneth Kwiatkowski

SECTION 14 Restaurant or hotel/motel license applicants:

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

_____ and license #: _____
Last First Middle

- 2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.
- 3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.
- 4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this hotel/motel restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

applicant's signature

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

applicants initials

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

- 1. Check ALL boxes that apply to your business:
 Entrances/Exits Liquor storage areas Patio: Contiguous
 Service windows Drive-in windows Non Contiguous
- 2. Is your licensed premises currently closed due to construction, renovation, or redesign? YES NO
 If yes, what is your estimated opening date? _____
month/day/year
- 3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.
- 4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spiritous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).
- 5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

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

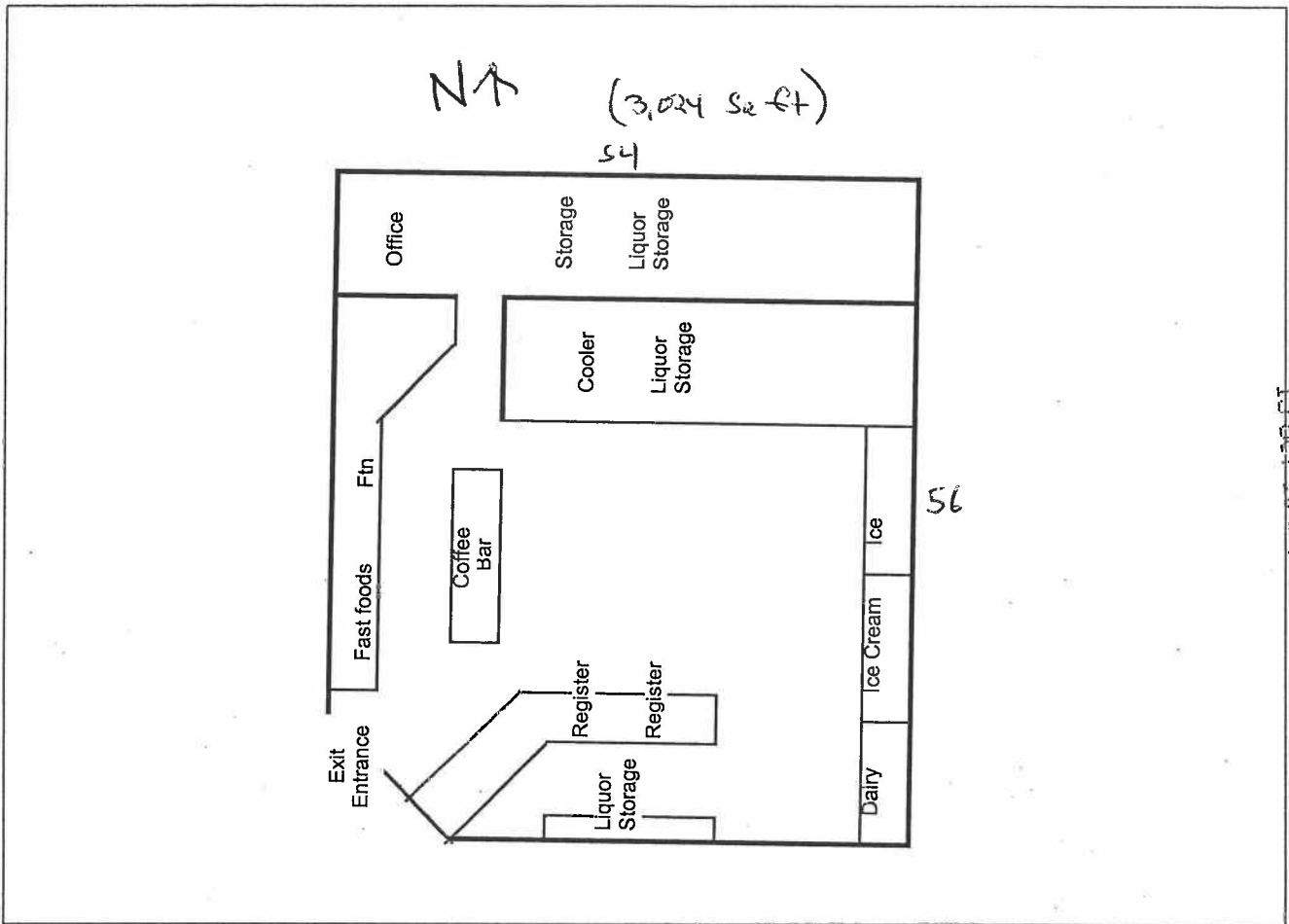
 BK
applicants initials

13 OCT 10 14:16 PM 402

SECTION 15 Diagram of Premises

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

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

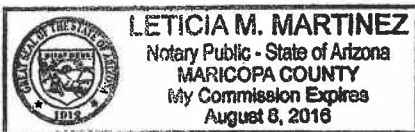


13 OCT 10 11:41 PM '13

SECTION 16 Signature Block

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

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



State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this

10 of OCTOBER, 2013
Day Month Year

Leticia M. Martinez
signature of NOTARY PUBLIC

My commission expires on: 08 Aug 2016
Day Month Year

Circle K Stores Inc.
Texas 6/8/51
Charter No. 0010697700
FIN# 74-1149540

OFFICE	Name	BUSINESS ADDRESS	PHONE
* President and Secretary	Brian Hannasch	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
* Sr Vice President	Geoffrey C. Haxel	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Vice President	Timothy Shawn Tourek	495 E Rincon, Suite 150, Corona, CA 92879	(951) 270-5129
Vice President	Darrell Davis	12911 Telecom Parkway, Tampa, FL 33637	(813) 910-6882
Vice President	Lou Valdes	3001 Gateway Dr., #130, Irving, TX 75063	(602) 728-8000
Vice President	Jason Broussard	12911 Telecom Parkway, Tampa, FL 33637	(650) 454-1073
Vice President	Matt McCure	2440 Whitehall Park Dr., #800, Charlotte, NC 28273	(704) 583-5700
Vice President	Paul Rodriguez	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Vice President	Kathy Cunningham	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Vice President	Dennis Tewell	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Vice President	Joe Chiovera	2440 Whitehall Park Dr., #800, Charlotte, NC 28273	(602) 728-8000
* Treasurer and Assistant Secretary	Kathleen K Cunningham	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Assistant Secretary	Scott J. Stevenson	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Assistant Secretary	Kim Kwiatkowski	1130 W Warner Rd, Tempe, AZ 85284	(602) 728-8000
Assistant Secretary	Sylvain Aubry	1600 St. Martin Blvd East, Tower B, Suite 200, Laval, Quebec H7G 4S7	(450) 662-6632
Assistant Secretary	Marc Lee Flanary	495 E Rincon, Suite 150, Corona, CA 92879	(951) 270-5136
Assistant Secretary	David Morgan	495 E Rincon, Suite 150, Corona, CA 92879	(951) 270-5136
Assistant Secretary	Joshua S Lieberman	2440 Whitehall Park Dr., #800, Charlotte, NC 28273	(704) 583-5716
Assistant Secretary	Walter McMenamy	3001 Gateway Dr., #130, Irving, TX 75063	(602) 728-8000
Assistant Secretary	David O. Wilkins	12911 Telecom Parkway, Tampa, FL 33637	(813) 910-6815
Assistant Secretary	Peter Uhlich	12911 Telecom Parkway, Tampa, FL 33637	(813) 910-6878

* Director

Business Address: 1130 W. Warner Road, Bldg B, Tempe, AZ 85284 (602) 728-8000
 Domicile Address: % CSC-Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, TX 78701

12,000,000 Shares Authorized, 1,000 issued at \$1.00 Par. 100% owned by Circle K Delaware Inc. (FIN: 46-0520672)

Circle K Stores Inc. is qualified in:
 AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS,
 MO, NV, NM, NC, OK, OR, SC, TN, TX, UT, WA

Corporate Structure:
 Circle K Delaware Inc. is 100% owned by The Circle K Corporation (Brian Hannasch - President/Director)
 The Circle K Corporation is 100% owned by Couche-Tard U.S. GP (Brian Hannasch - President/Director)
 Couche-Tard U.S. GP (the General partner is 3055854 Nova Scotia Company, the limited partner is Mac's Convenience Stores Inc.)
 3055854 Nova Scotia Company is 100% owned by Mac's Convenience Stores Inc. (Brian Hannasch - Sr. Vice President)
 Mac's Convenience Stores Inc. is 100% owned by Couche-Tard Inc. (Brian Hannasch - Sr. Vice President)
 Couche-Tard Inc. is 100% owned by Depan-Escompte Couche-Tard Inc. (Brian Hannasch - Sr. Vice President)
 Depan-Escompte Couche-Tard Inc. is 100% owned by Alimentation Couche-Tard Inc. (Brian Hannasch - Sr. Vice President)
 Alimentation Couche-Tard Inc. is a publicly traded company (Brian Hannasch - Sr. Vice President)

20 OFFICERS LIST OF 100 ET

Requesting Department:

Economic Development



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, AICP
TOWN MANAGER

FROM: DOREEN COTT
ECONOMIC DEVELOPMENT DIRECTOR

RE: DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION
970-13 APPROVING THE DEVELOPMENT AGREEMENT
BETWEEN THE TOWN AND VPQCM, LLC (VESTAR)

DATE: NOVEMBER 20, 2013

Staff Recommendation:

Staff recommends approval of Resolution 970-13 approving the development agreement between the Town and VPQCM, LLC (Vestar) providing for the development of a Harkins Theater at the Queen Creek Marketplace.

Proposed Motion:

Move to approve Resolution 970-13 and the development agreement between the Town and VPQCM, LLC (Vestar) providing for the development of a Harkins Theater at the Queen Creek Marketplace.

Discussion:

Vestar, the developer of the Queen Creek Marketplace, would like to enhance the tenant mix at the Marketplace with the addition of a 14-screen cinema to be operated by Harkins Theaters, Inc. On July 17, 2013 the Town Council approved the rezoning case RZ13-019 and the site plan SP13-020 for the Harkins at Queen Creek Marketplace.

Vestar has requested the deferral, and potential waiver, of certain development fees required to be paid as part of the development and construction of the theater.

The Town has identified Family/Youth & Children Activity Destinations as a targeted sector in the Economic Development Strategic Plan. Currently there is no movie theater within the Town limits causing residents and visitors to leave the community to go to the movies thus spending their money in neighboring

cities and towns. The Town recognizes that a movie theater is an important addition to the Town and is consistent with the Town's goals in the redevelopment area. The Town also recognizes that the theater will be a catalyst for additional commercial development, not only in the Queen Creek Marketplace, but for the Town Center as a whole.

Staff has determined that the theater will be a benefit to the community and the residents and is recommending the deferral, and the potential waiver, of certain fees not to exceed \$400,000. This figure is based on the estimated amount of total fees associated with this project. The fees will only be waived and/or deferred if the theater is open on or before the opening date of May 1, 2015.

Fiscal Impact:

The Town agrees to defer the payment of certain building, development, permit and plan check fees, including site-work related fees applicable to the property that the theater will be constructed in an amount not to exceed \$400,000.

Financially, estimates show that Harkins will draw in excess of 500,000 people annually into the Marketplace development, generating a significant increase in local sales tax revenue to the Town (\$140,000+ annually). Additionally this people flow will potentially drive added development to the Marketplace and Town Center (restaurants for example) which will generate added sales tax revenue to the Town. Moreover, the Harkins theatre will strengthen the Queen Creek Marketplace development overall; important to the financial future of the Town. Further, as part of the waiver, Harkins will provide free on-screen advertising to the Town for a 3 year period (See exhibit C for details).

Finally, in accordance with State statute, any government who waives development fees must reimburse this amount to the respective development fee accounts (fire, police et al). We propose doing this by using the significant construction sales tax revenue generated from the project (\$300,000+) to make this happen. Please note however that this is strictly an accounting procedure; no monies will leave the Town Treasury.

Again building, permit, plan and development fees will only be waived if the developer meets the opening of the theatre by May 1, 2015.

Alternatives:

The Town Council could choose to decrease the amount of fees that the Town will defer and/or waive.

Attachments:

- Resolution 970-13
- Development Agreement with Exhibits.

RESOLUTION NO. 970-13

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN COUNCIL OF QUEEN CREEK, ARIZONA, APPROVING A DEVELOPMENT AGREEMENT WITH VPQCM, LLC PROVIDING FOR THE DEVELOPMENT OF A HARKINS THEATER AT THE QUEEN CREEK MARKETPLACE AND AUTHORIZING THE MAYOR TO SIGN THE SAME

WHEREAS, the Town Council finds that it is in the interest of the Town that a movie theater ("Cinema") be constructed and operated in the Town Center and VPQCM, LLC ("Vestar") has indicated its willingness to cause such a Cinema to be constructed on the property known as the Queen Creek Marketplace, subject to the terms of the Development Agreement attached hereto as Exhibit "A."

NOW, THEREFORE, the Mayor and Common Council resolve as follows:

Section 1. That the Development Agreement, Exhibit "A" is hereby approved and adopted, and the Mayor is authorized to sign the same.

Section 2. That the Mayor, Town Manager and Town Attorney are authorized to sign such documents and take such actions as are reasonably necessary to effectuate the terms of the Development Agreement.

PASSED AND ADOPTED by the Mayor and Common Council of Queen Creek, Arizona this 20th day of November, 2013.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

Gail Barney, Mayor

Jennifer F. Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

John Kross, Town Manager

Dickinson Wright/Mariscal Weeks
Town Attorneys

WHEN RECORDED RETURN TO:

Town of Queen Creek
Attn: Town Clerk
22350 South Ellsworth Road
Queen Creek, Arizona 85142

DEVELOPMENT AGREEMENT

**TOWN OF QUEEN CREEK, ARIZONA,
an Arizona municipal corporation**

AND

**VPQCM, LLC,
a Delaware limited liability company**

November 20, 2013

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made as of the ____ day of November, 2013, by and between the TOWN OF QUEEN CREEK, ARIZONA, an Arizona municipal corporation (the "**Town**"); and VPQCM, LLC, a Delaware limited liability company ("**Developer**"). The Town and Developer are sometimes referred to herein collectively as the "**Parties**," or individually as a "**Party**."

RECITALS

A. Developer owns and operates Queen Creek Marketplace, an approximate 686,000 square foot shopping center (the "**Center**") in the Town's redevelopment area, established pursuant to ARS § 36-1471 et seq.

B. The Center has been instrumental in prompting other developments in the redevelopment area, and in advancing the Town's commercial growth.

C. Developer now wishes to develop the Center further, including the addition of a 14-screen multiple screen or cinema or "cineplex" (the "**Cinema**") to be operated by Harkins Theatres, Inc., or an affiliate ("**Harkins**"), a long-established Arizona company with deep roots throughout the state.

D. There presently exists no movie or cinema facility within the Town, which causes and requires the Town's residents and visitors to travel to adjacent communities to view movies, all of which is inconsistent with the Town's intentions and desires to have the Town, and particularly its redevelopment area, serve as a primary commercial, retail, restaurant and hospitality resource for the Town's residents.

E. The Town, acting through its Town Council, has determined that a multi-screen cinema facility, particularly if operated by an esteemed Arizona company, is an important addition to the Town and is consistent with the Town's goals in establishing its redevelopment area.

F. Developer has requested the deferral, and potential waiver, of certain development fees required to be paid by Developer in connection with the development and construction of the Cinema.

G. The Town has reviewed Developer's request, and in view of the Town's goals with respect to its redevelopment area, and the value to the Town of providing an in-town cinematic experience in such redevelopment area, to benefit the Town and the Town's residents, the Town has agreed, all as more fully set forth in this Agreement, to grant the deferral, and the potential waiver, of certain fees to be incurred by Developer.

H. In reliance upon the Town's approval and adoption of this Agreement and the Town's representation and covenant that it will provide and perform the undertakings set forth in this Agreement, Developer agrees, without limiting in any respect the specific provisions of this Agreement, to the undertakings set forth in this Agreement (which Town and Developer

acknowledge are beyond those which may be imposed upon Developer as a matter of law), which the Town has requested or required of Developer in order to advance the Town's interests:

I. The Town, acting through its Town Council, further has found that the deferral of fees, and their potential waiver, requested by the Developer is not grossly incommensurate with the anticipated benefits to the redevelopment area specifically, and to the Town generally.

J. The Parties also understand and acknowledge that this Agreement is authorized by and entered into accordance with the terms of A.R.S. §9-500.11. The actions taken by the Town pursuant to this Agreement are for economic development activities as that term is used in A.R.S. §9-500.11, will assist in the creation and retention of jobs, and will in numerous other ways improve and enhance the economic welfare of the residents of the Town.

K. The Town is entering into this Agreement as an administrative act to implement and to facilitate development of the Center consistent with the policies of the Town reflected in the previously adopted ordinances establishing the redevelopment area, the Town's General Plan and the Zoning. This Agreement is independent of any other or earlier agreement entered into by and between Developer and the Town with respect to the Center.

AGREEMENTS

Now, therefore, in consideration of the foregoing recitals and representations and the mutual promises contained in this Agreement, the Parties agree as follows:

1. DEFINITIONS.

In this Agreement, unless a different meaning clearly appears from the context:

(a) **"Affiliate"**, as applied to any person, means any person directly or indirectly controlling, controlled by, or under common control with, that person or a blood relative or spouse of such person, if such person is a natural person. For the purposes of this definition, (i) **"control"** (including with correlative meaning, the terms "controlling," "controlled by" and "under common control"), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise, and (ii) **"person"** means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

(a) **"Agreement"** means this Agreement, as amended and restated or supplemented in writing from time to time, and includes all exhibits and schedules hereto. References to Sections or Exhibits are to this Agreement unless otherwise qualified. The Recitals set forth in Paragraphs A through L, inclusive, are incorporated herein by reference and form a part of this Agreement but are not intended to expand the scope, number or nature of Developer's obligations beyond those expressly set forth in the numbered sections of this Agreement.

- (b) “**Applicable Laws**” means as defined in Section 3.2(a).
- (c) “**Approved Plan**” means as defined in Recital B.
- (d) “**A.R.S.**” means the Arizona Revised Statutes as now or hereafter enacted or amended.
- (e) “**Center**” means as defined in Recital A.
- (f) “**Commencement of Construction**” means both (i) the obtaining of a building, excavation, grading or similar permit by Developer for the construction of the Cinema, and (ii) the actual commencement of physical construction operations on the Property in a manner necessary to achieve timely Completion of Construction of the Cinema.
- (g) “**Completion of Construction**” means the date on which one or more temporary or final certificates of occupancy have been issued by the Town for the Cinema.
- (h) “**Developer**” means the Party designated as Developer on the first page of this Agreement, and its successors and assigns that conform with the requirements of this Agreement.
- (i) “**Effective Date**” means the date on which all of the following has occurred: this Agreement has been adopted and approved by the Town Council, executed by duly authorized representatives of the Town and Developer, and recorded in the office of the Recorder of Maricopa County, Arizona.
- (j) “**Enforced Delay**” means as defined in Section 8.6.
- (k) “**General Plan**” means the Town’s General Plan, as required by statute, and as required, from time to time, by the Town.
- (l) “**Grand Opening**” means the date publicly announced by Developer for the grand opening of the Cinema for retail business to the public, which date may be on or before the Completion of Construction, and the date on which the Cinema actually opens on a full-time basis for the public.
- (m) “**Default**” or “**Event of Default**” means one or more of the events described in Section 8.1 or 8.2; provided, however, that such events shall not give rise to any remedy until effect has been given to all grace periods, cure periods and/or periods of Enforced Delay provided for in this Agreement and that in any event the available remedies shall be limited to those set forth in Section 8.
- (n) “**Opening Date**” means May 1, 2015.
- (o) “**Party**” or “**Parties**” means as designated on the first page of this Agreement.

(p) **“Property”** means as defined in Recital A and as described in Exhibit A.

(q) **“Term”** means the period commencing on the Effective Date and terminating on the date on which the Parties have performed all of their obligations hereunder; provided, however, that in no event shall the Term of this Agreement extend beyond the fifth anniversary of the Opening Date.

(r) **“Town”** means the Party designated as Town on the first page of this Agreement.

(s) **“Town Code”** means the Code of the Town of Queen Creek, Arizona, as amended from time to time.

(t) **“Town Council”** means the Town Council of the Town.

(u) **“Town Development Fee”** or **“Town Development Fees”** means as defined in Section 3.3.

(v) **“Third Party”** means any person (as defined in Section 1(b) above) other than a Party, or an Affiliate of any Party.

(w) **“Zoning”** means as the Town’s ordinances relating to, and regulating, zoning within the Town.

2. **PARTIES AND TERM OF THIS AGREEMENT.**

2.1. Parties to the Agreement. The Parties to this Agreement are the Town and the Developer.

(a) The Town. The Town is a municipal corporation and a political subdivision of the State of Arizona, duly organized and validly existing under the laws of the State of Arizona, exercising its governmental functions and powers.

(b) The Developer. The Developer is VPQCM, LLC, a Delaware limited liability company, together with its successors in interest and assigns. The Developer is the successor via assignment of the developer of the Center on the Property.

2.2 Term. Notwithstanding anything in this Agreement to the contrary, this Agreement shall terminate, or be deemed to terminate, on the earlier of (i) the second anniversary of the Effective Date if Developer has failed to achieve Completion of Construction of the Cinema by such date subject to Enforced Delay; or (ii) the fifth anniversary of the Opening Date if Developer has achieved Completion of Construction of the Cinema by the Opening Date.

3. **SCOPE AND REGULATION OF DEVELOPMENT.**

3.1. Plans and Specifications.

(a) Approved Plans. Development and construction of the Cinema shall be in accordance with plans and specifications (“Plans”) prepared and submitted by Developer and which shall comply with the Town’s General Plan and the Zoning. Review and approval of the Plans, shall be undertaken by the Town in accordance with its regular and customary procedures.

(b) Approval Process. The process for the submittal, review and approval of the Plans, shall be in accordance with the Town’s ordinary submittal, review and approval processes then in effect. Subject to Applicable Laws, the Town and Developer will cooperate reasonably in processing the approval or issuance of any permits, plans, specifications, plats or other development approvals requested by Developer in connection with development of the Cinema.

(c) Cooperation in the Implementation of the Approved Plan. Developer and the Town shall work together using reasonable best efforts throughout the pre-development and development stages to resolve any Town comments regarding implementation of the Approved Plan. If Developer reaches an impasse regarding development approval with the Town's staff, the dispute shall be resolved as provided in Section 13.

3.2. Development Regulation.

(a) Applicable Laws. For purposes of this Agreement, the term “Applicable Laws” means the federal, state, county and local laws (statutory and common law) ordinances, rules, regulations, permit requirements, and other requirements and official policies of the Town which apply to the development of the Property as of the Effective Date.

(i) the development of the Property will be subject to the 2003 International Building Code with such modifications as may be adopted by the Town; and

(ii) the building, development, plan check, permit, and other project-related fees required to be paid by Developer for the development and construction of the Cinema shall be those contained in the Schedule of Fees attached hereto as Exhibit B. [NOTE: **Need schedule.**]

3.3. Town Development Fees.

(a) The improvements that Developer has agreed or proposes to construct with respect to the Cinema require the payment by Developer to the Town of certain building, development, permit and plan check fees, including site-work related fees applicable to the real property upon which the Cinema is being constructed (collectively the “Fees”). The Town hereby agrees to defer the payment of the Fees by Developer until such time as the Cinema opens for business and is operated by Harkins.

(b) The Fees shall be due and payable to the Town from Developer on or before May 1, 2015.

(c) Notwithstanding the foregoing or anything in this Agreement to the contrary, in the event that Harkins commences operating the Cinema no later than May 1, 2015 (that is, the Cinema being open to the public on a full-time basis, consistent with all other cinemas being operated by Harkins), then the Town shall waive the payment of the Fees by Developer. In the event that Harkins has not commenced operating the Cinema by the Opening Date, then the Town shall not waive the Fees, and the Fees shall be due and owing in full from Developer on or before the Opening Date.

4. **DEVELOPER OBLIGATIONS.**

4.1. Cinema. Developer shall exercise good faith efforts to cause to be constructed by Harkins via reimbursement of costs from Developer per a Lease Agreement with Harkins, the Cinema in accordance with all approved plans and specifications, and further exercising good faith efforts to meet the following deadlines (subject to Enforced Delay):

- | | | |
|-----|--|------------------|
| (a) | Groundbreaking | January 15, 2014 |
| (b) | Developer deliveries
Cinema pad site to Harkins | April 1, 2014 |
| (c) | Harkins commences
construction of Cinema | June 1, 2014 |

[NOTE: Covered by 3.3(c).]

4.2. On-Screen Advertising. For a period of three (3) years, following the Opening Date, and for a period of three (3) years thereafter, Developer, at its sole cost and expense, shall supply, or shall cause Harkins to supply, on-screen advertising on all screens within the Cinema, and at regular intervals as agreed by the Town's Manager, in accordance with the "**On-Screen Advertising Schedule**" attached to this Agreement as Exhibit C. The Town shall use such on-screen advertising to advertise or promote (i) the Town; (ii) the Town's elections, projects, meetings and events; (iii) tourism within the Town; (iv) civic events and organizations within the Town, or conducting activities within the Town, reasonably determined by the Town to benefit the Town or its residents; (v) public service announcements (including but not limited to public health and safety); (vi) non-profit organizations (whether local, regional, state or national) and their activities reasonably determined by the Town to benefit the Town or its residents; and (vii) similar events and activities (collectively, "Town Advertising"). Such Town Advertising shall be subject to such reasonable regulations and requirements of Harkins that are uniformly imposed upon its advertisers. It shall be the responsibility of the Town to provide the content and format of Town Advertising in a form customary to Harkins. In addition, for a period of two (2) years following the expiration of the foregoing three-year period, Developer shall reasonably make available space at appropriate kiosks and via audio announcements on its Muzak system for Town Advertising in a manner that does not conflict with privately sold advertising and does not subtract from the shopping experience of the Center's patrons as reasonably determined by Developer. The Town shall be responsible for providing the content and format of the Town Advertising in a form customary to Developer.

5. **INDEMNITY; RISK OF LOSS.**

5.1. Indemnity by Developer. Developer shall pay, defend, indemnify and hold harmless the Town and its Town Council members, officers and employees from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys fees, experts' fees and court costs associated) which arise from or relate in any way to any act or omission by Developer, or its employees, contractors, subcontractors, agents or representatives, undertaken in fulfillment of Developer's obligations under this Agreement. The provisions of this Section 5.1, however, shall not apply to loss or damage or claims therefore which are attributable solely to acts or omissions of the Town, its agents, employees, contractors, subcontractors or representatives. Developer shall have no defense obligation in any instance in which a claim is asserted based upon an act or omission solely of the Town, its employees, contractors, subcontractors, agents or representatives. The foregoing indemnity obligations of Developer shall survive the expiration or termination of this Agreement for a period equal to the applicable statute of limitations period.

5.2. Indemnity by the Town. The Town shall pay, defend, indemnify and hold harmless Developer and its Affiliates and their respective partners, shareholders, officers, managers, members, agents and representatives (and their respective partners, shareholders, officers, managers, members, agents or representatives) from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities and suits (including attorneys' and experts' fees and court costs associated) which arise from or which relate in any way to any act or omission solely of or on the part of the Town, its employees, contractors, subcontractors, agents or representatives, undertaken in fulfillment of the Town's obligations under this Agreement. The provisions of this Section 5.2 shall not apply to loss or damage or claims therefore which are attributable in whole or in part to acts or omissions of Developer and/or its Affiliates, or their respective agents, employees, contractors, subcontractors or representatives. The Town shall have no defense obligation in any instance in which a claim is asserted based, in whole or in part, upon an act or omissions of Developer, its employees, contractors, subcontractors, agents or representatives. The foregoing indemnity obligations of the Town shall survive the expiration or termination of this Agreement for a period equal to the applicable statute of limitations period.

5.3. Risk of Loss. The Town does not assume the risk of any and all loss, damage or claims to the Cinema.

5.4. Insurance. During the period of any construction involving the Cinema, and with respect to any construction activities relating to the Cinema, Developer will obtain and provide the Town with proof of payment of premiums and certificates of insurance showing that Developer is carrying, or causing its contractor(s) to carry, builder's risk insurance, comprehensive general liability and worker's compensation insurance policies in amounts and coverages set forth on Exhibit . Such policies of insurance shall be placed with financially sound and reputable insurers, require the insurer to give at least thirty (30) days advance written notice of cancellation to the Town, and will name the Town as an additional insured on such policies.

6. TOWN REPRESENTATIONS. The Town represents and warrants to Developer that:

6.1. The Town has the full right, power and authorization to enter into and perform this Agreement and each of Town's obligations and undertakings under this Agreement, and the Town's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the Town Code.

6.2. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

6.3. The Town will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

6.4. The Town knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the Town or its officials with respect to this Agreement that has not been disclosed in writing to Developer.

6.5. The execution, delivery and performance of this Agreement by the Town is not prohibited by, and does not conflict with, any other agreements, instruments or judgments or decrees to which the Town is a party or is otherwise subject.

6.6. The Town has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

7. **DEVELOPER REPRESENTATIONS.** Developer represents and warrants to the Town that:

7.1. Developer has the full right, power and authorization to enter into and perform this Agreement and of the obligations and undertakings of Developer under this Agreement, and the execution, delivery and performance of this Agreement by Developer has been duly authorized and agreed to in compliance with the organizational documents of Developer.

7.2. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

7.3. Developer will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

7.4. As of the date of this Agreement, Developer knows of no litigation, proceeding or investigation pending or threatened against or affecting Developer, which could have a material adverse affect on Developer's performance under this Agreement that has not been disclosed in writing to the Town.

7.5. This Agreement (and each undertaking of Developer contained herein) constitutes a valid, binding and enforceable obligation of Developer, enforceable according to

its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity. Developer will defend the validity and enforceability of this Agreement in the event of any proceeding or litigation arising from its terms that names Developer as a party or which challenges the authority of Developer to enter into or perform any of its obligations hereunder and will cooperate with the Town in connection with any other action by a Third Party in which the Town is a party and the benefits of this Agreement to the Town are challenged. The severability and reformation provisions of Section 9.3 shall apply in the event of any successful challenge to this Agreement.

7.6. The execution, delivery and performance of this Agreement by Developer is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which Developer is a party or to which Developer is otherwise subject.

7.7. Developer has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers and attorneys.

7.8. Developer has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

8. **EVENTS OF DEFAULT; REMEDIES.**

8.1. Events of Default by Developer. "Default" or an "Event of Default" by Developer under this Agreement shall mean one or more of the following:

(a) Any representation or warranty made in this Agreement by Developer was materially inaccurate when made or shall prove to be materially inaccurate during the Term;

(b) Developer fails or refuses to supply on-screen advertising to the Town in accordance with Section 4.2;

(c) Developer transfers or attempts to transfer or assign this Agreement in violation of Section 9.2; or

(d) Developer fails to observe or perform any other material covenant, obligation or agreement required of it under this Agreement.

8.2. Events of Default by the Town. Default or an Event of Default by the Town under this Agreement shall mean one or more of the following:

(a) Any representation or warranty made in this Agreement by the Town was materially inaccurate when made or shall prove to be materially inaccurate during the Term;

(b) Upon the timely Opening of the Cinema, the Town fails to provide the waiver of Developer's Fees in accordance with Section 3.2(c) of this Agreement; or

(c) The Town fails to observe or perform any other material covenant, obligation or agreement required of it under this Agreement.

8.3. Grace Periods; Notice and Cure. Upon the occurrence of an Event of Default by any Party, such Party shall, upon written notice from the other Party, proceed immediately to cure or remedy such Default and, in any event, such Default shall be cured within thirty (30) days (or five (5) days in the event of a monetary Default after receipt of such notice, or, if such non-monetary Default is of a nature is not capable of being cured within thirty (30) days shall be commenced within such period and diligently pursued to completion.

8.4. Remedies for Default. Whenever any Event of Default occurs and is not cured (or cure undertaken) by the non-performing Party in accordance with Section 8.3 of this Agreement, the other Party may take any of one or more of the following actions:

(a) Remedies of the Town. The Town's exclusive remedies for an Event of Default by Developer shall consist of, and shall be limited to the following:

(i) If an Event of Default by Developer occurs prior to Completion of Construction and with respect to Developer's failure to construct or develop the Cinema in accordance with the terms of this Agreement, the Town may suspend any of its obligations under this Agreement, including but not limited to any obligation to waive the Fees pursuant to Section 3.3.

(ii) If an Event of Default by Developer occurs following Completion of Construction and with respect to Developer's failure or refusal to supply on-screen advertising to the Town in accordance with Section 4.2 of this Agreement, then the Town may purchase such advertising directly from Harkins for the Town Advertising described on Exhibit C at commercially available costs, and thereafter recover such costs from Developer.

(b) Remedies of Developer. Developer's exclusive remedies for an Event of Default by the Town shall consist of and shall be limited to the following:

(i) If an Event of Default by the Town occurs at any time, whether prior to or after Completion of Construction, Developer may seek special action or other similar relief (whether characterized as mandamus, injunction or otherwise), requiring the Town to undertake and to fully and timely perform its obligations under this Agreement, including, but not limited to, the waiver of the Fees in accordance with the terms of this Agreement or recover damages for the failure of the waiver of fees.

8.5. Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any Default by the other Party shall not be considered as a waiver of rights with respect to any other Default by the performing Party or with respect to the

particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

8.6. Enforced Delay in Performance for Causes Beyond Control of Party.

Neither the Town nor Developer, as the case may be, shall be considered not to have performed its obligations under this Agreement in the event of enforced delay (an “**Enforced Delay**”) due to (1) causes beyond its control and without its fault, negligence or failure to comply with Applicable Laws, including, but not restricted to, acts of God, acts of public enemy, acts of the Federal, state or local government, acts of the other Party, acts of a Third Party, litigation concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby (including the effect of petitions for initiative or referendum), fires, floods, epidemics, pandemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, act of a public enemy, war, terrorism or act of terror, sabotage, or similar occurrence or any exercise of the power of eminent domain, condemnation, or other taking by the action of any governmental body on behalf of any public, quasi-public, or private entity, or declaration of moratorium or similar hiatus directly affecting the Property (whether permanent or temporary) by any public, quasi-public or private entity; (2) the order, judgment, action, or determination of any court, administrative agency, governmental authority or other governmental body other than the Town or the Council or one of its departments, divisions, agencies, commissions or boards other than for just cause or in good faith (collectively, an “**Order**”) which delays the completion of the work or other obligation of the Party claiming the delay; or the suspension, termination, interruption, denial, or failure of renewal (collectively, a “**Failure**”) of issuance of any permit, license, consent, authorization, or approval necessary to Developer’s undertakings pursuant to this Agreement, unless it is shown that such Order or Failure is the result of the fault, negligence or failure to comply with Applicable Laws by the Party claiming the delay; provided, however, that the contesting in good faith of any such Order or Failure shall not constitute or be construed or deemed as a waiver by a Party of Enforced Delay; or (3) the denial of an application, failure to issue, or suspension, termination, delay or interruption other than by or from the Town or the Council or one of its departments, divisions, agencies, commissions or boards (collectively, a “**Denial**”) in the issuance or renewal of any permit, approval or consent required or necessary in connection with Developer’s undertakings pursuant to this Agreement, if such Denial is not also the result of fault, negligence or failure to comply with Applicable Laws by the Party claiming the delay; provided that the contesting in good faith or the failure in good faith to contest any such Denial shall not constitute or be construed or deemed as a waiver by a Party of Enforced Delay. In no event will Enforced Delay include any delay resulting from general economic or market conditions, unavailability for any reason of particular tenants or purchasers of portions of the Center, nor from the unavailability for any reason of particular contractors, subcontractors, vendors, investors or lenders desired by Developer in connection with the Center, it being agreed that Developer will bear all risks of delay which are not Enforced Delay. In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the Enforced Delay; provided that the Party seeking the benefit of the provisions of this Section 8.6 shall, within thirty (30) days after such Party knows of any such Enforced Delay, first notify

the other Party of the specific delay in writing and claim the right to an extension for the period of the Enforced Delay; provided, however, that either Party's failure to notify the other of an event constituting an Enforced Delay shall not alter, detract from or negate its character as an Enforced Delay if such event of Enforced Delay were not known or reasonably discoverable by such Party; and provided, further, that no period of Enforced Delay shall exceed a period of ninety (90) consecutive calendar days.

8.7. Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of any one or more of such rights shall not preclude the exercise by it, at the same or different times, of any other right or remedy for any other Default by the other Party.

9. MISCELLANEOUS PROVISIONS.

9.1. Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 9.1.

9.2. Restrictions on Assignment and Transfer. Prior to Completion of Construction, no assignment of the rights under this Agreement shall occur without the prior written consent of Town, which consent may be given or withheld in the Town's reasonable discretion. The restrictions set forth in Section 9.2 of this Agreement shall terminate automatically, and without further notice or action, upon Completion of Construction. No voluntary or involuntary successor in interest to Developer shall acquire any rights or powers under this Agreement, except as expressly set forth herein. Notwithstanding the foregoing, the Town is aware that financing for development, construction, acquisition, and operation of the Cinema or the Center may be provided or has been provided, in whole or in part, from time to time, by one or more third parties (collectively, "Lender"), which Lender may request a collateral assignment of this Agreement as part of its collateral for its loan to Developer. The Town agrees that such collateral assignments are permissible without consent of the Town. In the event of default by Developer, the Town shall provide notice of such default at the same time notice is provided to Developer to any Lender previously identified in writing to the Town. If a Lender is permitted, under the terms of its agreement with Developer to cure the default and/or to assume Developer's position with respect to this Agreement, the Town agrees to recognize the rights of Lender and to otherwise permit Lender to assume such rights and obligations of Developer under this Agreement. The Town shall, at any time upon request by Developer or Lender, provide to any Lender an estoppel certificate, acknowledgement of collateral assignment, or other document evidencing that this Agreement is in full force and effect, that it has not been amended or modified (or, if appropriate, specifying such amendment or modification), and that no default by Developer exists hereunder (or, if appropriate,

specifying the nature and duration of any existing default) and certifying to such other matters reasonably requested by such Developer or Lender. Upon request by a Lender, the Town will enter into a separate assumption or similar agreement with such Lender consistent with the provisions of this Section 9.2. **[NOTE: Our Lender (currently BofA per a recent permanent loan) likes to see this language. BofA will also be providing some additional financing for the Cinema.]**

9.3. Limited Severability. The Town and Developer each believes that the execution, delivery and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the Town to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, Town code or Town charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

9.4. Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

9.5. Notices.

(a) Addresses. Except as otherwise required by law, any notice required or permitted under this Agreement shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section, or by any nationally recognized express or overnight delivery service (e.g. Federal Express or UPS), delivery charges prepaid:

If to the Town:

Town of Queen Creek
Attn: Town Manager
22350 South Ellsworth Road
Queen Creek, Arizona 85142

With a required copy to: Town of Queen Creek
Attn: Town Attorney

If to Developer: VPQCM, LLC
2425 E. Camelback Rd., #750
Phoenix, AZ 85016
Attn: David Larcher

With a required copy to: VPQCM, LLC
2425 E. Camelback Rd., #750
Phoenix, AZ 85016
Attn: Allan Kasen

(b) Effective Date of Notices. Any notice sent by United States Postal Service certified or registered mail shall be deemed to be effective the earlier of the actual delivery, or three (3) business days after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt (or refusal to accept receipt) by the addressee. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee. Any Party may designate a different person or entity or change the place to which any notice shall be given as herein provided.

(c) Payments. Payments shall be made and delivered in the same manner as Notices; provided, however, that payments shall be deemed made only upon actual receipt, in good and available funds, by the intended recipient.

9.6. Time of Essence. Time is of the essence of this Agreement and each provision hereof.

9.7. Section Headings. The Section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

9.8. Attorneys' Fees and Costs. In the event of a breach by any Party and commencement of a subsequent legal action in an appropriate forum, the prevailing Party in any such dispute shall be entitled to reimbursement of its reasonable attorney's fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the parties and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

9.9. Waiver. Without limiting the other terms or provisions of this Agreement, the Parties agree that neither the failure nor the delay of any Party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver of such right, remedy, power

or privilege, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

9.10. Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement, except for permitted transferees, assignees, or lenders and except that the indemnified Parties referred to in the indemnification provisions of Sections 5.1 and 5.2 (or elsewhere in this Agreement) shall be third party beneficiaries of such indemnification provisions.

9.11. Exhibits. Without limiting the provisions of Section 1 of this Agreement, the Parties agree that all references to this Agreement include all Exhibits designated in and attached to this Agreement, such Exhibits being incorporated into and made an integral part of this Agreement for all purposes.

9.12. Integration. Except as expressly provided herein, this Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the subject matters covered by this Agreement.

9.13. Further Assurances. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (a) this Agreement as in full force and effect and (b) the performance of the obligations hereunder at any time during its Term.

9.14. Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.

9.15. Consents and Approvals. Wherever this Agreement requires or permits the consent or approval of a Party to any act, document, use or other matter, such consent or approval shall be given or denied by such Party in its reasonable discretion, unless this Agreement expressly provides otherwise.

9.16. Covenants Running With Land; Inurement. Notwithstanding the fact that this Agreement is being recorded in the Official Records of Maricopa County, it is intended to the extent permitted by law that this Agreement shall not be an encumbrance upon the title of any person purchasing a portion of the Property, that the terms and conditions of the Agreement are not covenants running with the land and that no person is bound by (or entitled to) the burdens and benefits of this Agreement unless such burdens are expressly assumed or such

benefits are expressly assigned, or except as otherwise expressly provided pursuant to the terms of this Agreement. **[NOTE: Pad purchasers get nervous if we do not include this language.]**

9.17. Recordation. Within ten (10) days after this Agreement has been approved by the Town and executed by the Parties the Town shall cause this Agreement to be recorded in the Official Records of Maricopa County, Arizona.

9.18. Amendment. No change or addition is to be made to this Agreement except by written amendment executed by the Town and Developer. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Maricopa County, Arizona. Upon amendment of this Agreement as established herein, references to "Agreement" or "Development Agreement" shall mean the Agreement as amended. If, after the effective date of any amendment(s), the parties find it necessary to refer to this Agreement in its original, unamended form, they shall refer to it as the "Original Development Agreement." When the Parties mean to refer to any specific amendment to the Agreement which amendment is unmodified by any subsequent amendments, the Parties shall refer to it by the number of the amendment as well as its effective date.

9.19. Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgment or consent.

9.20. Survival. All indemnifications contained in Sections 5.1 and 5.2 of this Agreement shall survive the execution and delivery of this Agreement, the closing of any transaction contemplated herein, and the rescission, cancellation, expiration or termination of this Agreement upon the terms and for the period set forth in each respective Section.

9.21. Nonliability of Town Officials, Etc., and of Employees, Members and Partners, Etc. of Developer. No Town Council member, official, representative, agent, attorney or employee of the Town shall be personally liable to any of the other Parties hereto, or to any successor in interest to any of the other Parties, in the event of any Default or breach by the Town or for any amount which may become due to any of the other Parties or their successors, or with respect to any obligation of the Town under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Developer under this Agreement shall be limited solely to the assets of Developer and shall not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are shareholders, members, managers constituent partners, officers or directors of the general partners or members of Developer; (ii) the shareholders, members or managers or constituent partners of Developer; or (iii) officers of Developer.

9.22. Conflict of Interest Statute. This Agreement is subject to, and may be terminated by the Town in accordance with, the provisions of A.R.S. §38-511.

9.23. Waiver. Developer hereby waives and releases the Town (“Waiver”) from any and all claims under A.R.S. § 12-1134, *et seq.*, including any right to compensation for reduction to the fair market value of all or any part of the Property or the remainder of the Center, respectively, as a result of the Town’s approval of this Agreement, the Town’s approval of Developer’s plans and specifications for the Project, the issuance of any permits, and all related zoning, land use, building and development matters arising from, relating to, or reasonably inferable from this Agreement. The terms of this Waiver shall run with all land that is the subject of this Agreement and shall be binding upon all subsequent landowners, assignees, lessees and other successors, and shall survive the expiration or earlier termination of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

DEVELOPER:

VPQCM, LLC, a Delaware limited liability company

By: _____

Name: _____

Its: _____

TOWN:

Queen Creek, Arizona, an Arizona municipal corporation

By: _____
Mayor

ATTEST:

By: _____
Town Clerk

APPROVED AS TO FORM:

By: _____
Town Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, the _____ of the Town of Queen Creek, Arizona, an Arizona municipal corporation, who acknowledged that he/she signed the foregoing instrument on behalf of the Town.

Notary Public

My commission expires:

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2013, before me, _____, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My commission expires:

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL NO. 1:

Lot 8, QUEEN CREEK M P – PHASE 1, according to Book 897 of Maps, page 27, records of Maricopa County, Arizona.

PARCEL NO. 2:

Lots 1, 2, 4, 5, 12, 13, 17 and 18, QUEEN CREEK M P – PHASE 1 LOTS 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 16, 17 & 18, according to Book 963 of Maps, page 14, records of Maricopa County, Arizona.

PARCEL NO. 3:

Easements for ingress and egress, parking, utilities and other purposes as created by instrument recorded in Document No. 2007-124860, records of Maricopa County, Arizona.

EXHIBIT B
LIST OF FEES TO BE WAIVED

PERMIT AND DEVELOPMENT FEE DEFERRAL/WAIVER
Harkins Cinema Project – Queen Creek Marketplace

The building and development fees that will be deferred, and waived upon timely compliance with the developer's construction and related obligations, are the building permit fee, the building plan review fee, the fire plan review fee, the police facilities development fee, the town facilities development fee, the street facilities development fee, the fire facilities development fee, and the wastewater development fee.

Building permit and plan review fees are based on valuation; development fees are based on total square footage as provided in the application (or meter size with respect to wastewater fees). Based solely on preliminary estimates of the project's valuation, the applicable building permit fee, building plan review fee, and fire plan review fee total approximately \$38,000.00. Based solely on preliminary estimates of the project's square footage, the applicable development fees total approximately \$280,000.00.

Notwithstanding the foregoing, the Town will not defer or waive fees in excess of \$400,000.00.

EXHIBIT C
HARKINS ON SCREEN ADVERTISEMENTS

Three years of monthly purchases of 15 second non-audio advertisements which rotate prior to commencement of coming attractions in each movie theatre in Cinema. It is estimated that the foregoing results in approximately 300-500 showings per week.

EXHIBIT D
TOWN OF QUEEN CREEK INSURANCE REQUIREMENTS

A. Property. During the period of any construction involving the Cinema, builder's risk insurance on an all-risk, replacement cost basis for the Cinema.

B. Liability. During the period of any construction involving the Cinema, insurance covering the Developer and (as an additional insured) the Town against liability imposed by law or assumed in any written contract, and/or arising from personal injury, bodily injury or property damage, with a limit of liability of \$5,000,000.00 per occurrence with a \$5,000,000.00 products/completed operations limit and a \$10,000,000.00 general aggregate limit. Such policy must be primary and written to provide blanket contractual liability, broad form property damage, premises liability and products and completed operations.

C. Contractor. During the period of any construction involving the Cinema, each of the general or other contractors with which the Developer contracts for any such construction shall be required to carry liability insurance of the type and providing the minimum limits set forth below:

i) Workman's Compensation insurance and Employer's Liability with limits of \$1,000,000.00 per accident, \$1,000,000.00 per disease and \$1,000,000.00 policy limit disease.

ii) Commercial general liability insurance on a \$5,000,000.00 per occurrence basis providing coverage for:

Products and Completed Operations
Blanket Contractual Liability
Personal Injury Liability
Broad Form Property Damage
X.C.U.

iii) Business automobile liability including all owned, non-owned and hired autos with a limit of liability of not less than \$1,000,000.00 combined single limit for personal injury, including bodily injury or death, and property damage.

D. Architect. In connection with any construction involving the Cinema, the Developer's architect shall be required to provide architect's or engineer's professional liability insurance with a limit of \$1,000,000.00 per claim. This policy, or other policies, shall cover claims for a period of not less than three (3) years after the completion of construction involving the Parcels and the Cinema.

E. Engineer. In connection with any construction involving the Cinema, the Developer's soils engineer or environmental contractor shall be required to provide engineer's professional liability insurance with a limit of \$1,000,000.00 per claim. This policy, or other policies, shall cover claims for a period of not less than three (3) years after the completion of the construction involving the Property and the Cinema.

F. CPI Adjustments. The minimum coverage limits set forth above shall be adjusted every five (5) years by rounding each limit up to the million dollar amount which is nearest the percentage of change in the Consumer Price Index (the "CPI") determined in accordance with this paragraph. In determining the percentage of change in the CPI for the adjustment of the insurance limits for any year, the CPI for the month October in the preceding year, as shown in the column for "All Items" in the table entitled "All Urban Consumers" under the "United States Town Averages" as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be compared with the corresponding index number for the month of October one (1) year earlier.

G. Primary Coverage. Developer's insurance coverage shall be primary insurance with respect to the Town, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the Town, its officers, officials, agents, and employees shall be in excess of the coverage provided by Developer and shall not contribute to it.

H. Indemnities. Coverage provided by the Developer shall not be limited to the liability assumed under the indemnification provisions of the Agreement.

I. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the Town, its officers, officials, agents, and employees Property.

J. Notice of Cancellation: Each insurance policy shall include provisions to the effect that it shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the Town. Such notice shall be sent directly to Town Manager, 130 Coolidge Avenue, Coolidge, AZ 85228, and shall be sent by certified mail, return receipt requested.

K. Acceptability of Insurers: Insurance is to be placed with insurers duly licensed of approved unlicensed companies in the State of Arizona and with an "A.M. Best" rating of not less than A- VII. The Town in no way warrants that the above-required minimum insurer rating is sufficient to protect Developer from potential insurer insolvency.

L. Verification of Coverage: Developer shall furnish the Town with original certificates of insurance (ACCORD form or equivalent approved by the Town) as required herein. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict of limit coverage shall be clearly noted on the certificate of insurance.

All certificates are to be received and approved by the Town before the Commencement of Construction. Each insurance policy must be in effect at or prior to the Commencement of Construction and must remain in effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide timely evidence of renewal will be considered a material breach of the Agreement.

All certificates required by this Agreement shall be sent directly to Town of Queen Creek, Attn: Manager, 510 East Florence Boulevard, Casa Grande, Arizona 85222. The Town reserves the

right to require complete, certified copies of all insurance policies and endorsements required by this Insurance Exhibit at any time.

M. Approval: Any modification or variation from the insurance requirements in Insurance Exhibit must have prior approval from the Town Manager's Office whose decision shall be final. Such action will not require formal contract amendment, but may be made by administrative action.

N. Miscellaneous. References to Developer herein shall mean Developer and/or its general contractor(s). References herein to the Agreement shall mean the Development Agreement of which this Exhibit is a part. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement. The Town in no way warrants that the minimum limits contained herein are sufficient to protect Developer from liabilities that might arise and Developer may purchase such additional insurance as Developer determines necessary.