

T-MAC

DEVELOPMENT COMPANY

KENZIE HAMANN

Managing Partner | T-MAC Development Company
2930 E. Camelback Road #140 Phoenix, AZ 85016

M 480.622.5831

mackenzie@tmacdevco.com

September 27, 2024

Via email: jmacias@elmirageaz.gov

Jose A. Macias
City of El Mirage
10000 N El Mirage Road
El Mirage, AZ 85335

RE: Request for waiver per zoning code §152.030
SWC Grand Ave + Acoma Drive
APN: 501-33-009Z

To Whom it May Concern:

The purpose of this letter is to request a formal waiver of the requirement to underground all overhead distribution lines on the property located at the southwest corner of Grand Avenue and Acoma Drive (Please see attached Exhibit A – SITE).

T-MAC Development Company intends to develop a Black Rock Coffee Bar (drive-thru only) facility on the subject site. The building will be a 620 square foot conventional framed or prefabricated single building at or below 25 feet in height. The remainder of the property is currently being marketed to all users permitted under the UC zoning code.

The site totals 2.2 acres and has never been developed. T-MAC will upgrade current utility conditions to include both private water and sewer. Per city code §152.030 (attached), T-MAC is required to underground approximately 650 feet of overhead distribution lines that are rated 12.47kV (Please see attached Exhibit B – SCOPE). However, per the same code, we feel as though a waiver for this requirement is justified given the following reasons:

- Total underground length is less than 1,000 feet (zoning code §152.030 section E1).
- Unusual economic hardship (zoning code §152.030 section E2) – contract purchase price for the 2.2 AC parcel is \$500,000. Initial estimates for required work to underground lines totals \$255,000. The acquisition budget to build a 650 SF coffee shop cannot sustain a 51% price increase. (Please see attached project bids.)



- Proportion of costs (zoning code §152.030 section E2) -- The costs of the undergrounding are disproportionate in terms of the utility frontage and the proportionate frontage of the project under consideration. Total frontage of the site equals 314 feet. The project scope requires us to underground 650 feet of overhead lines – more than double.
- APS requires that if the existing wooden poles are removed, a new solid steel pole will need to be erected in the public right of way on Acoma Drive to relocate necessary equipment.
- This development will occur in an area where all borders of the subject site are currently developed (infill situation). Lines are required to run under Acoma Drive which will cause for road closures due to trenching construction – a major inconvenience to those living in the subdivision to the southwest of the site as well as neighboring businesses (zoning code §152.030 section E2).
- Two of the poles required to be undergrounded are located on neighboring parcels with open and operating businesses (zoning code §152.030 section E2).

We believe this development will bring great energy and much needed service to the area. However, given the current economic burden proportionate to the size of the project, we must request a waiver for the work required under zoning code §152.030.

Thank you for your consideration.

Sincerely,



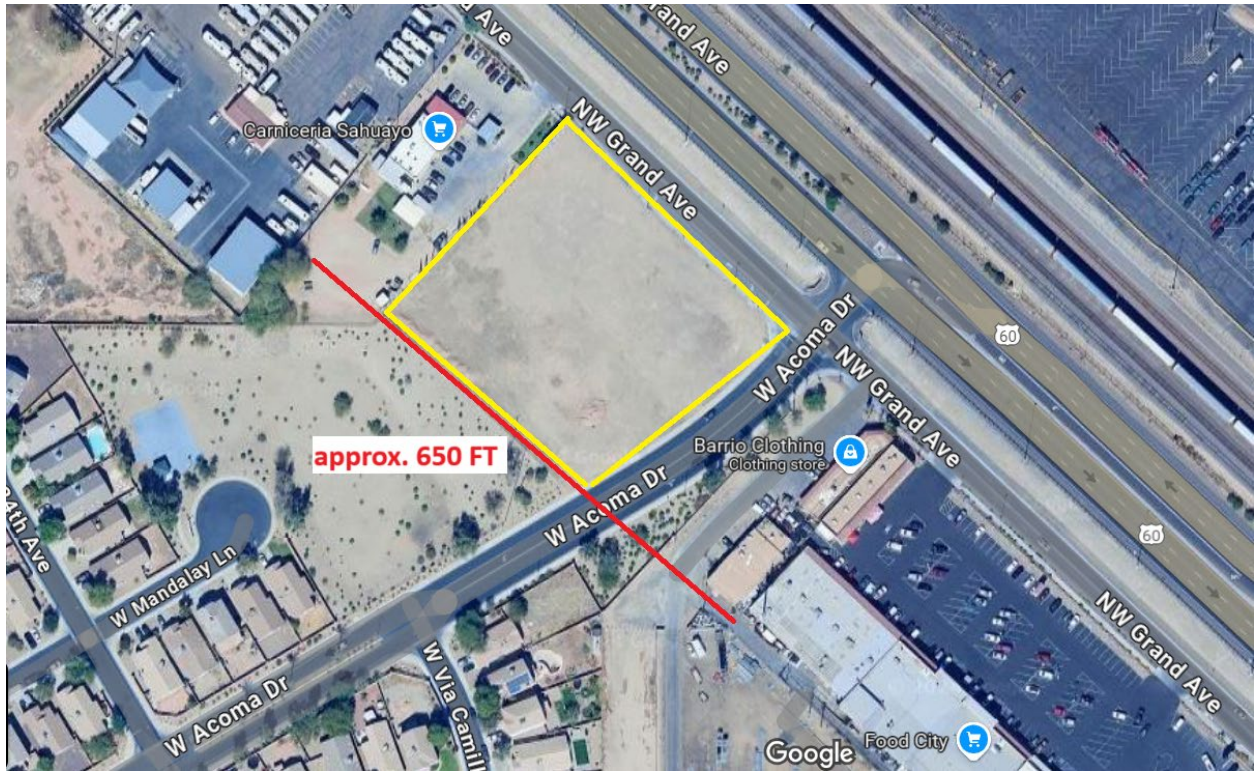
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EXHIBIT A – SITE



EXHIBIT B – SCOPE



Kenzie Hamann

From: Warren, Tyler
Sent: Wednesday, September 25, 2024 2:57 PM
To: Kenzie Hamann
Subject: Project estimate

Hi Kenzie,

Looking at the scope of work, I'm estimating the conversion, plus extension, will cost around \$65,000. This includes the removals, new pole installation, and installs of underground facilities. Please note that this is an estimate for APS work only and does not include trench or conduit.

Please let me know if you have any questions. Thank you.

****Please note that current material constraints are impacting project completion dates.****

Tyler Warren

Customer Project Representative
T&D Customer Construction West
Physical: 16800 N Dysart Rd – Surprise, AZ 85378
USPS: PO Box #66 – El Mirage, AZ 85335
FedEx/UPS: 11925 W Thunderbird Rd #66 – El Mirage, AZ 85335



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September 26, 2024

Electrical Proposal – T-MAC – El Mirage APS Underground

T-MAC Development Company

Attn: Kenzie Hamann

Scope of Work: Kortman proposes to supply and install electrical materials to facilitate the installation of the APS required underground conduits, etc. for a 650' total distance as per the (4) photos and notes in the email sent on 9/26/24, and as described below:

Inclusions:

• **Pole Riser to Transformer: (Primary Run / Trench, Install & Backfill)**

- **Provide 24" x 48" normal soils trenching and native backfill = 340'**
 - Backfill to be completed at 12" lifts to comply with utility company requirements
 - Provide equipment to comply with dust control requirements
- **Furnish and install (2) 5" DB120 PVC conduits = 680'**
 - Furnish and install 90°/45° PVC elbows = **4qty**
- **Furnish and install APS specific 75" x 88" transformer pad = 1qty**
 - Furnish and install APS specified ½ sack CLSM slurry backfill under XFMR pad = **8.45 cyds**
 - Furnish off-site haul of native to slurry spoils = **8.45 cyds**
 - Install APS Provided ¾" x 8' copper ground rod with 20' #3/0 ground wire pigtail per APS specifications; termination of wire to transformer by APS.
- **Stub up conduits for Pole Riser per APS specifications = 1 qty**
- **Furnish and install marker tape = 340'**
- **Furnish and install mule tape 2500lbs = 680'**

• **Road Side Bore Pit to Road Side Bore Pit: (Primary Run / Bore & Install)**

- Provide 10" normal soils bore = 60'**
- **Provide 5' x 5' x 4' bore pits (native or slurry backfill) = 2 qty**
 - **Provide 2' x 2' potholes to expose located existing conduits = 2 qty**
 - Provide equipment to comply with dust control requirements
 - Furnish and install 1/2 sack CLSM slurry backfill = **8.89 cyds**
 - Provide off-site haul off all native to slurry backfill = **8.89 cyds**
 - **Furnish and install (2) 5" schedule 40 PVC conduits = 120'**
 - Furnish and install 90°/45° PVC elbows = **0 qty**
 - **Furnish and install marker tape = 60'**
 - **Furnish and install mule tape 2500lbs = 120'**

• **Transformer to SES: (Secondary Run / Trench, Install & Backfill)**

- Provide 24" x 48" normal soils trenching and native backfill = 50'**
- Backfill to be completed at 12" lifts to comply with utility company requirements
 - Provide equipment to comply with dust control requirements
 - **Furnish and install (2) 4" DB120 PVC conduits = 100'**
 - Furnish and install 90°/45° PVC elbows = **8 qty**
 - **Furnish and install marker tape = 50'**
 - **Furnish and install mule tape 2500lbs = 100'**

Asphalt Cut, Demo & Restoration Included: None
Concrete Cut, Demo & Restoration Included: None
Traffic Control Included For

- Trench Protection Only – no Road/ROW work on current design.

NOTES: 1. Breakout pricing provided for accounting purposes only. Pricing based as all breakouts being awarded as one complete project. If any portion is deleted or awarded as a separate contract, pricing will need be adjusted.

- Pricing based on normal soil conditions only, and not inclusive of medium dig, hard dig or rock dig soil conditions. Should any of these three type soil conditions be encountered, additional costs will be tracked and billed on T&M basis per pricing shown on attached Premier Underground T&M Rate Sheet. Additionally, labor rates noted do not include overtime and or off hours labor premiums and would be in addition to the rates as listed.
- All T&M work to be billed net 30, by end of month in the corresponding month.
- Utility plans required for additional work that may be required.
- Pricing based on current market PVC costs, and is contingent upon having an executed contract, submittals being approved, and an order released within 90 days from date of this proposal.
- Retention to be paid within 60 days of completion of the contracted scope.
- **For Change Orders – pricing is valid for 14 calendar days only from date of this proposal.**

INCLUSIONS:

- Mobilization/Demobilization: **qty 1**

EXCLUSIONS:

- Shoring, benching or sloping of trenches less than 5' in depth.
- Hard dig (Backhoe with BTI hammer or rock trencher needed for excavation) except of previously noted.
- Davis Bacon / Prevailing wages & night / shift differential pay and overtime work
- Sales Tax.
- Payment & Performance Bond.
- Additional mobilizations than as noted above.
- Any additional work or deviations from the attached marked up prints and this proposal.
- Landscaping, gravel / rock, tree, plant, vegetation removal and / or replacement
- Tracer wire and detectable warning tape except as previously noted.
- All electrical wiring and terminations, electrical equipment, SES, panel boards and transformers.
- Trench / all materials associated with grounding system ground rods, wires, wire terminations and test wells.
- Furnishing and installing concrete pole bases, anchor bolts and templates.
- Auguring and backfilling of pole holes for direct buried light poles.
- Furnishing and installing of GRC or PVC coated GRC conduit, elbows, nipples.
- Furnishing and installing of Sch80 PVC, GRC, or PVC coated GRC risers.
- Furnishing and installing of strut racking systems in support of conduit risers.
- Building / Wall Penetrations
- Providing density testing of trench backfill.
- Site / trench survey and equipment layout.
- Concrete or slurry backfill / encasement – Unless specified.
- Onsite spoil relocation or off site haul off – Unless specified.
- Asphalt / Slurry Seal / Concrete cut, removal, haul off & patch back - Unless specified.
- All permitting, steel plates, traffic control, barricades and fencing – Unless specified.
- Pavement marking / striping replacement – Unless specified.
- Portable restroom facilities / wash stations
-

Exclusions:

- Changes to this design dictated by the authority having jurisdiction. (AHJ)
- Bringing Existing Electrical up to code.
- Any permits or engineering fees.
- Providing and installing any and all special systems, i.e. data, phone, communications, security, cameras, fire alarm, etc.

(BUDGET ONLY) PRICE: \$190,000.00 (Including Tax)

Acceptance – Estimate # SSO-1728 (BUDGET ONLY)

We hereby reviewed the proposal and accept the terms and conditions, for the total sum of (BUDGET ONLY) One Hundred Ninety Thousand Dollars and 00/----- (\$190,000.00) Including Tax and promise to make payment as follows:

*Within fifteen (15) days of invoice.
This proposal is good for (30) days.*

Company Name: **T-MAC – El Mirage APS Underground**

Address: **Grand & Acoma – El Mirage, AZ**

Authorized Signature: _____

Print Name: _____

Title: _____

P.O. #: _____

Date: _____ / _____ / _____

The price for this scope is conditioned upon unaltered AIA contract documents or another contract acceptable to Kortman Inc. This proposal is valid for 30 days. Proposal \$1,000.00 and over are automatically pre-liened.

Please return one (1) signed copy to Kortman Inc., retain second copy for your records.

UNDERGROUNDING OF OVERHEAD UTILITY LINES.

§ 152.030 GENERAL PROVISIONS.

(A) The developer shall place underground all existing overhead utility lines, including but not limited to telephone, cable television and electric power, except electrical lines exceeding 13 kV capacity, either within a proposed development or redevelopment project or within public rights-of-way or easements adjacent to the project, prior to issuance of a certificate of occupancy. This requirement shall apply to all projects submitted for approval or re-approval under the provisions of the site development in the zoning code. Utility poles and lines are defined herein as the poles, structures, wire, aerial cables, and related facilities used in the distribution of electricity or in the transmission of telecommunications, telegraph, data, radio, or television communications. This requirement includes utility lines on and adjacent to the project, including lines which extend across public streets, alleys, and/or easements adjacent to the property being developed or redeveloped. Existing utility lines within or adjacent to a project shall be under-grounded up to the first existing pole beyond the limits of the property. This requirement includes the undergrounding of all existing overhead service lines attached to the lines to be removed along with necessary conduit, supports, restoration and the like, necessary to convert the service line from overhead to underground. The requirement shall apply regardless of the existence of easements for overhead lines. When high-voltage power lines, above 13 kV or similar, are present on the same poles as the lower voltage lines, all lines other than the high-voltage lines shall be placed underground.

(B) Equipment appurtenant to the underground facilities, such as surface-mounted transformers, pull boxes, pedestal cabinets, service terminals, telephone splice closures, concealed ducts, or other similar on-the-ground facilities normally used with or as approved by the City Engineer, may be maintained above ground with the written permission of the City Engineer for the specific facility to be left above ground.

(C) The developer or owner of a development or redevelopment project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including the design and payment of any cost therefore as a condition of plan approval. Nothing contained herein is intended to obligate a providing utility company to install the underground facilities without reimbursement.

(D) In those instances where poles to be removed include street lights, the street lights will be replaced with freestanding poles by the developer in accordance with current street light standards.

(E) Relief from undergrounding requirements may be considered, at the discretion of City Council, under the following conditions.

(1) Deferment of undergrounding may be requested by a developer in cases where the utility frontage is small (generally less than 1,000 feet in length). When deferment is approved, the developer shall obtain an estimate of undergrounding costs from all affected utility companies. The developer shall then be required to provide a cash deposit, letter of credit, certificate of deposit, or other security acceptable to the City Attorney, in an amount equal to the estimated under-grounding costs, as provided by the utility company, associated with the utility frontage of the project. The developer shall also be required to install the ductwork (conduit) required by the utility companies for the future undergrounding prior to issuance of certificate of occupancy. Phasing of projects will be considered based on the particular situation. On projects for which plans are approved in phases, the developer may request delay in payment of estimated costs until approval of plans for the largest phase involving undergrounding, at which time payment for the entire project shall be required. The obligation to pay at the time of a subsequent phase shall be secured by an agreement which shall bind the owner and subsequent buyers for undergrounding costs along the entire applicable frontage. Monies received will be held in an account by the city to be used at whatever time the applicable area is converted by the city, utility companies, or other parties to underground utilities.

(2) Exemption may be considered where the developer can show that undergrounding will be an unusual economic hardship and the costs of the undergrounding are disproportionate in terms of the utility frontage and the proportionate frontage of the project under consideration. Examples are cases where development occurs in an area where adjacent land on both sides is already developed (infill situation), and in cases involving additions or modifications to existing sites which represent a minor portion of the total site.

(3) Exemption may be considered when high-voltage powerlines, above 13 kV or similar, would remain on the poles after the undergrounding of the lower voltage lines.

(4) All requests for relief must be presented in writing to the Planning and Development Director prior to plan approval. Consideration for approval shall be in accordance with the purpose, intent, and objective of this section. The City Council shall approve or disapprove all formal requests for relief. Aesthetics is only one of many reasons for undergrounding of which public safety is paramount. Completion of undergrounding and/or payment of costs shall be required prior to granting of a certificate of occupancy. All new service lines installed shall be underground per § 155.057 even though relief may be granted for adjacent existing lines.

(F) The requirements set forth above shall not apply to new utility poles and wires erected for purely temporary purposes such as providing temporary building construction power, emergency power, telephone service, or the furnishing of power to temporary outdoor activities. A permit for the temporary use shall be obtained from the Engineering Division. The length of the temporary use shall be specified in the permit and may not exceed six months. An additional six-month permit may be issued upon a finding of necessity by the City Engineer.

(Prior Code, Art. 19-4) (Res. R22-09-20, passed 9-8-2022; Ord. O22-09-05, passed 9-8-2022)