

EXHIBIT 1



Scout Katovich
Staff Attorney
Trone Center for Justice and Equality
ACLU National Legal Department

July 7, 2023

Justin S. Pierce
Aaron D. Arnson
Trish Stuhan
Stephen B. Coleman
PIERCE COLEMAN PLLC
7730 East Greenway Road, Suite 105
Scottsdale, AZ 85260

Re: Deficiencies in Responses to Plaintiffs' Expedited Discovery Requests

Counsel,

We write to address a number of deficiencies in City Defendants' Supplemental Responses to Plaintiffs' Expedited Discovery Requests dated June 14, 2023 (the "June 14 Responses"). These responses and the documents produced raise a number of concerns, and do not represent a good faith effort to provide discovery as required by the Federal Rules of Civil Procedure. We request that your clients immediately correct and supplement the June 14 Responses. If these requests are not supplemented, we will have no choice but to schedule a meet and confer and notify the Court of the discovery dispute.

General Deficiencies

Defendants' June 14 Responses contain a number of objections that are improper under the Federal Rules of Civil Procedure. These deficiencies apply to all responses.

First, in response to Plaintiffs' request for documents concerning the "May 10 sweep," City Defendants made a general objection claiming that Plaintiffs' requests are "vague and ambiguous in [their] use of the term 'sweep.'" This objection is unfounded as the term, "sweep" has been regularly used throughout this suit and in the media to describe the City's actions on May 10 in the Zone.¹ So, the City Defendants' assertion that they cannot understand what the word "sweep" means is little more than impermissible "gamesmanship." *Agyeman v. Bohl*, 2008 WL 4104313, at *2 (E.D. Cal. Sept. 3, 2008) (noting "Parties are prohibited from using discovery as a form of gamesmanship to avoid disclosures."). Any objection made on this ground should therefore be withdrawn.

¹ See, e.g., <https://www.fox10phoenix.com/news/the-zone-aclu-asks-judge-to-find-phoenix-in-contempt-over-recent-homeless-sweep>



Indeed, Plaintiffs’ Request for Modification of preliminary injunction and Motion for Order to Show Cause (“Order to Show Cause”), filed concurrently with Plaintiffs’ motion for expedited discovery, describes City Defendants’ May 10 actions in the Zone on 9th Avenue between Washington and Jefferson Streets as a “sweep” and uses the defined term “May 10 Sweep” throughout. *See* Doc. 59. City Defendants had no trouble understanding the meaning of “sweep” in this or other filings to date. City Defendants’ preference for various euphemisms, whether “cleaning,” Doc. 50 at 6, “enhanced cleanup,” Doc. 80 at 3, “enhanced engagement event,” *id.*, and, now, “cleaning and connection efforts,” June 14 Responses at 3, is a distraction and an insufficient basis for objection to Plaintiffs’ clear and unambiguous requests.

Second, City Defendants’ responses to Plaintiff’s requests are also deficient because they do not specify whether documents are being withheld on the basis of objections or state how the search for responsive materials was conducted. *See* Fed. R. Civ. P. 34(b)(2)(C) (“An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.”); *Smilovits v. First Solar, Inc.*, No. CV12-00555-PHX-DGC, 2013 WL 12226906, at *2 (D. Ariz. Nov. 25, 2013) (“Rule 34 responses must state whether any documents or electronically stored information are being withheld on the basis of objections.”).

In order to avoid running afoul of the rules, the City Defendants should supplement its responses to (1) produce all responsive, non-privileged material; and (2) explain whether responsive information has been withheld on the basis of each objection or provide “the limits that have controlled the search for responsive and relevant materials.” *See* Fed. R. Civ. P. 34 advisory committee’s note, 2015 Amendment.

Finally, the City Defendants’ repeated objections that discovery requests are outside the scope of discovery, overbroad, unduly burdensome, and/or not reasonably calculated to lead to the discovery of admissible evidence lack merit. As an initial matter, boilerplate objections are highly disfavored by the Court in response to discovery requests. *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006) (“general or boilerplate objections such as “overly burdensome and harassing” are improper—especially when a party fails to submit any evidentiary declarations supporting such objections.”). Rule 34 requires a party to state its objections to a discovery request “with specificity.” *See* Fed. R. Civ. P. 34(b)(2)(B); *Westfall v. Ass'n of Universities for Rsch. in Astronomy*, No. CV-22-00161-TUC-RM, 2023 WL 1782120, at *13 (D. Ariz. Feb. 6, 2023) (“Plaintiff’s objections are not sufficiently developed to comply with Rule 34(b)(2)(B) because he does not explain them with specificity and reasoning.”).



Furthermore, review of the plain terms of the preliminary injunction forecloses the boilerplate objections. The City is enjoined from:

1. Enforcing the Camping and Sleeping Bans against individuals who practically cannot obtain shelter as long as there are more unsheltered individuals in Phoenix than there are shelter beds available;
2. Seizing any property of the unsheltered without providing prior notice at the property's location that the property will be seized, unless the agent or employee has an objectively reasonable belief that it is (a) abandoned, (b) presents an immediate threat to public health or safety, or (c) is evidence of a crime or contraband; and
3. Absent an immediate threat to public health or safety, destroying said property without maintaining it in a secure location for a period of less than 30 days.

Preliminary Injunction Order at 19. Given the express restrictions on the enforcement of the Camping and Sleeping Bans against unsheltered people and the seizure and destruction of property, the City cannot reasonably maintain that the manner in which it displaced unsheltered individuals during the May 10 sweep is outside the scope of discovery or unlikely to lead to the discovery of admissible evidence. The discovery requests are limited to the May 10 sweep, one day in the five-month period that the preliminary injunction has been in effect, obviating any overbreadth claims.

City Defendants' objection on the basis that the burden of searching for and producing the requested documents outweighs the benefit of production is also baseless. As the Court recognized at the May 26 hearing, Plaintiffs' "discovery requests are quite reasonable requests," and should be easy for City Defendants to respond to. May 26 Tr. at 10:21-22; *see also id.* at 10:24-25 ("I certainly don't see why the City can't respond in a rapid fashion"). Whether and how City Defendants instructed their agents and employees to store or destroy property, issue post-seizure notices, offer shelter to unsheltered individuals, or penalize unsheltered people's noncompliance with requests to vacate when conducting the May 10 sweep is plainly relevant to Plaintiffs' claim that City Defendants violated the preliminary injunction.

The City's Failure to Adequately Respond to Specific and Clear Discovery Requests

In addition to the general deficiencies, which apply across responses, City Defendants have also failed to adequately response to the specific requests below:

City Defendants' Response to Request for Production 1:

In response to a request for instructions or guidance provided by the City to employees or contractors concerning the May 10 Sweep, the City Defendants claimed that the request is outside



the scope of discovery, overbroad, unduly burdensome, vague, and ambiguous. These objections are improper and do not justify withholding responsive documents.

In addition to the aforementioned improper boilerplate objections, there is no plausible ambiguity in Plaintiffs' use of the phrase "records concerning instructions or guidance." Nevertheless, to the extent City Defendants are genuinely confused, and in a good-faith effort to move forward expeditiously, Plaintiffs offer the following further explanation: this request seeks all documents and/or communications that contain instructions or guidance concerning the May 10 sweep that were provided to City employees and/or contractors or that memorialize instructions or guidance that were provided to City employees and/or contractors. The request also seeks documents, such as that produced by City Defendants at Phoenix FFE 0000101, sufficient to show the existence of any meetings during which instructions or guidance concerning the May 10 Sweep were communicated.

The City Defendants should correct their responses, withdraw these objections, and immediately produce all responsive documents. If the City Defendants maintain their objections, the response should be updated to state what if any documents are being withheld and on what basis. If the City Defendants are not withholding any responsive documents, please confirm that no instructions or guidance concerning or describing any "Enhanced Engagement" exist. *See* Doc. 80 at 3-5 (describing an "Enhanced Engagement" as a new type of event).

City Defendants' Response to Request for Production 2:

This request seeks all records concerning property collected and stored during the May 10 sweep, including any photos of collected property. In response, City Defendants object, without explanation, that this request is outside the scope of discovery, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. As aforementioned, these are improper boilerplate objections. Please supplement City Defendants' responses by removing these boilerplate objections and producing any documents withheld pursuant to these improper objections.

Notwithstanding these objections, the City Defendants identified two responsive documents: Phoenix FFE 0000078-79. If the City Defendants are not withholding any additional documents responsive to this request, confirm that the City only stored property for two individuals during the May 10 Sweep, *see* FFE 00079 at lines 13-14, and that the only City records concerning or identifying what property was stored on May 10 consists only of 5 numbers beginning with "95G-00." Please also provide unredacted versions of these documents or explain the basis for the redactions.



City Defendants' Response to Request for Production 3:

This request seeks information about unsheltered individuals displaced during the May 10 Sweep who accepted offers of shelter, including the names of those who accepted shelter placements. The City Defendants responded to this request with a single document (Phoenix FFE 000078) which did not identify the names of any individuals who accepted a shelter offer during the May 10 Sweep and further refused disclosure of other related documents based on non-relevant objections.

Compliance with the preliminary injunction requires consideration of whether unsheltered individuals could practically obtain shelter. PI Order, 19. Plaintiffs' Order to Show Cause alleged that shelter spaces offered during the May 10 sweep "were inappropriate for the circumstances of many of the displaced individuals, including because the shelters could not accommodate their pets or disabilities. Order to Show Cause, 8. As the City is aware, the Court recognized at the May 26 hearing that discovery from City Defendants identifying those individuals who accepted shelter when they were displaced by the May 10 Sweep is relevant to Plaintiffs' allegation that City Defendants did not make individualized assessments before coercing unsheltered individuals into limited and possibly unavailable or inappropriate shelter spaces (and that this discovery could be presented at a subsequent evidentiary hearing on those allegations). *See generally* May 26 Tr. at 12-17; *id.* at 17:4-7 (recognizing that discovery of information about individuals who accepted shelter on May 10 would "giv[e] Plaintiffs] information you need to make whatever arguments you want to make about the adequacy of assessments").

The City's objection to turning over information to Plaintiffs about the identity of those who have been similarly impacted is baseless. As Plaintiffs made clear during the May 26 hearing, they are happy to enter into a limited protective order that would prevent public disclosure of unsheltered individuals' personal identifying information. *See id.* at 12-17. Such a protective order, which was also endorsed by the Court at the May 26 hearing, renders moot any purported concern City Defendants have about the privacy of the unsheltered people displaced on May 10.

City Defendants' reliance on *Dorsett v. County of Nassau*, 762 F. Supp. 2d 500, 521 (E.D.N.Y. 2011) for the proposition that the privacy and safety interests of unsheltered persons weigh heavily against disclosure is misplaced, particularly in light of Arizona's public records law. First, *Dorsett* is distinguishable from the present action because it involved disclosure of identifying information to third-parties, not to opposing parties in the same litigation. *Id.* at 537. Second, Arizona's public records laws prohibit withholding the names of individuals identified in records absent a significant countervailing governmental interest. *See Smith v. Town of Marana*, 254 Ariz. 393 (Ct. App. 2022) (noting government cannot "create a black box of information that might render government activity impervious to public scrutiny."). City Defendants failed to meet this burden.



The City Defendants’ reliance on Homeless Management Information Systems (HMIS) Data and Technical Standards for the proposition that disclosure of the requested information is prohibited is also unsupported. First, this objection is untethered to the discovery requests because Plaintiffs are requesting information from the City Defendants, not from HMIS, nor the Continuum of Care that operates HMIS. Second, even if HMIS standards applied, there are several circumstances in which an unsheltered person’s personal information can be disclosed, including but not limited to, “carrying out administrative functions such as legal oversight.” (HMIS Final Notice Fed. Reg. 45888 §§ VIII(4)—(4.1.3)). Finally, the HMIS Final Rule states that organizations may have obligations that transcend the privacy interests of clients, and that disclosure rules of protected personal information are permissive, thereby directly contradicting City Defendants’ claim. *Id.*

City Defendants’ disingenuous concern for the sensitive financial or medical information of the very people they have committed constitutional violations against also does not justify withholding the requested discovery. These objections, and the cases City Defendants cite to, are inapposite to Plaintiffs’ request. *See, e.g., Doe v. Beard*, 63 F. Supp. 3d 1159, 1164 (C.D. Cal. 2014) (“The right to medical privacy [is] recognized by the Ninth Circuit as a constitutionally protected right[.]”). Plaintiffs’ request does not seek information about individuals’ financial status or medical history. Rather, the request seeks only the names and shelter placements of those who accepted shelter offers during the May 10 sweep. Any concerns about medical or financial privacy are attenuated at best and allayed by Plaintiffs’ proposal of a limited protective order.

Similarly, *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652 (C.D. Cal. 2005), cited by City Defendants to support their privacy objection, in fact articulates why Plaintiffs are entitled to the requested discovery. There, the court explained that any “privacy objection also ‘must be evaluated against the backdrop of the strong public interest in uncovering civil rights violations,’” and that “‘a carefully drafted protective order [can] minimize the impact of this disclosure.’” *Id.* at 657. Here, where Plaintiffs seek to uncover additional evidence of City Defendants’ violation of unsheltered individuals’ constitutional rights, any privacy concern is outweighed by the public interest and obviated by Plaintiffs’ proposed protective order.

Last, City Defendants’ trite accusation of a “fishing expedition” is plainly erroneous. The Court’s expedited discovery order alone demonstrates that Plaintiffs have raised sufficiently detailed concerns regarding the May 10 sweep to justify discovery, rendering the City Defendants’ objections toothless. Plaintiffs’ request is relevant to their claims and proportional to the needs of their case. Further, discovery is not limited to information about plaintiffs in a case, but rather requires disclosure of relevant information, whether concerning plaintiffs, defendants, or witnesses. !



City Defendants' Response to Request for Production 4:

This request seeks all communications with any shelter concerning the May 10 Sweep, shelter capacity, and/or shelter bed availability. In response, City Defendants primarily objected that the burden of finding and producing responsive documents outweighs the benefit to the matters at issue, but nonetheless produced almost 2,000 pages of largely non-responsive documents.

City Defendants' objections on the basis of burden are both unfounded and demonstrative of the City's failure to ensure compliance with the preliminary injunction. Plaintiffs' request is narrow in scope and, as the Court recognized at the May 26 hearing, should be easy to comply with on an expedited basis. Plaintiffs seek communications related to a single day with a limited number of entities. *See* Phoenix FFE 000078 (listing Surestay, Washington, Rio (sometimes listed as Rio Fresco), Diversion, CASS, Bridge, HSC Overflow, Saguaro, Respiro, UMOM). Plaintiffs' request is also highly relevant to their claim that the City threatened unsheltered people with citation and arrest without first ensuring that unsheltered people had practical access to appropriate shelter.

City Defendants' assertion of burden is also impossible to square with their statements in response to Plaintiffs' Order to Show Cause. There, City Defendants asserted that at a May 2 meeting, City Defendants discussed "the estimated number of individuals that were living in the 9th Avenue block" and "resources that needed to be available in order to offer each individual an indoor shelter space on May 10." Doc. 80 at 5. City Defendants additionally asserted that by May 10th "[t]he City knew that there was more than enough shelter space to accommodate everyone that may request shelter during the May 10 Enhanced Engagement Event," that the "City's OHS team is constantly monitoring the City's shelter capacity," that the City "gets live updates from . . . Washington Relief Center and Rio Fresco," "receives daily emails from CASS and the Human Services Campus that include shelter availability," and "gets regular updates regarding shelter space availability" from Maricopa County. *Id.* at 7. If these assertions are true, complying with Plaintiffs' request should be minimally burdensome as the City already knows the entities they communicated with in preparation for the May 10 sweep.

City Defendants' Deficient Document Production in Response to Request Number 4:

The documents City Defendants did produce are also deficient in numerous ways. First, instead of producing documents relevant to the time period specified in Plaintiff's request, City Defendants produced years of communications with CASS and SVP that are plainly irrelevant to shelter capacity around the time of the May 10 Sweep. Despite producing years of communications with CASS, City Defendants failed to produce the May 10 communications that are most relevant to Plaintiffs' request. *See* Phoenix FFE 000183-84 (May 9 email, followed by May 11 email). Second, the documents produced are also deficient because they do not provide the requested information, including the number of available beds or the total shelter capacity. Third, City



Defendants failed to produce the reports attached to the CASS emails. *See, e.g.* Phoenix FFE 000183 (May 9, 2023 email produced without attachment); Phoenix FFE 000294 (Email stating “Apologies I forgot the attachment” without producing the attachment). And, finally, City Defendants failed to produce any communications with the other shelters, including Rio, Bridge, Saguaro, UMOM, and Respiro, where they purportedly placed individuals displaced during the May 10 Sweep. *See* Phoenix FFE 000078.

City Defendants must produce all relevant responsive documents—including the May 10 email with CASS, all relevant attachments to emails, documents showing available shelter space or total shelter capacity, and communications with the other shelters—or confirm that these are the only communications that took place in the 7 days preceding and following May 10, 2023 concerning shelter space.

Advise if the City Defendants will turn this information over to us promptly. Alternatively, let us know if you are available to meet and confer about Plaintiffs’ discovery requests and City Defendants’ responses on July 12, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Scout Katovich".

Scout Katovich
Leah Watson
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Jared G. Keenan
Christine K. Wee
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EXHIBIT 2



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July 20, 2023

VIA EMAIL ONLY

Scout Katovich
Staff Attorney
Trone Center for Justice and Equality
ACLU National Legal Department
Email: skatovich@aclu.org

Re: Alleged Deficiencies in Responses to Plaintiffs' Expedited Discovery Requests

Dear Ms. Katovich:

This letter serves as the response of the City of Phoenix, Jeri Williams, and Michael Sullivan (collectively, the "City") to your July 7, 2023 correspondence regarding alleged deficiencies in the City's responses to Plaintiffs' expedited discovery requests.

Responses to Alleged "General Deficiencies"

It is unnecessary to respond to Plaintiffs' statement of alleged "general deficiencies" line by line. Many of Plaintiffs' objections are sufficiently addressed later in this correspondence. The City responds briefly to these identified alleged general deficiencies as follows.

First, as you are aware, it is true that the City has repeatedly objected to Plaintiffs' misleading and inappropriate continued use of the term "sweep." The City again objected to Plaintiffs' use of that term in its discovery responses. Nevertheless, please be assured that the City understands that, when Plaintiffs use the term "sweep," they are referring to the May 10, 2023 enhanced engagement effort. The City did not withhold any documents based on its objection to the term "sweep."

Second, except for Request for Production No. 3, the City has not withheld any documents or information on the basis of any objections or privilege.



Responses to Alleged Specific Deficiencies

Request for Production No. 1

Your correspondence clarifies that “this request seeks all documents and/or communications that contain instructions or guidance concerning the May 10 sweep that were provided to City employees and/or contractors or that memorialize instructions or guidance that were provided to City employees and/or contractors.” It also clarifies that the request seeks “documents, such as that produced by City Defendants at Phoenix FFE 0000101, sufficient to show the existence of any meetings during which instructions or guidance concerning the May 10 Sweep were communicated.”

The City confirms that it has not located any additional responsive documents and that no responsive documents have been withheld, either on the basis of a stated objection or on any other basis.

Request for Production No. 2

The City confirms that the documents produced in response to this request detail the property stored by the City during the May 10, 2023 enhanced engagement. No responsive documents have been withheld, either on the basis of a stated objection or on any other basis.

The document labeled Phoenix FFE 000079 was redacted in part for two reasons. First, in some instances, the document contains names and personal identifying information of a non-party, which is subject to redaction. Second, as we have previously discussed during settlement discussions in this matter, the City is unable to provide a full description of property stored on notices, etc., for the simple reason that if that information were to become publicly available, anyone would be able to claim the property as their own. For those reasons, the document at issue has been redacted. The City is confident that the redacted version of the document is sufficient to respond to Plaintiffs’ discovery requests.

Request for Production No. 3

The City will not disclose the names or information about unsheltered individuals who were required to move during the May 10, 2023 enhanced engagement and who accepted offers of shelter, including the names of those who accepted shelter placements.

You are correct that the Court’s order necessarily requires consideration of whether unsheltered individuals could practically obtain shelter. But before diving into discovery and obtaining private, personal identifying information, addresses, medical information, etc., about anyone – let alone a vulnerable population – Plaintiffs must have a credible claim that there was a violation in the first place, as the cases upon which the City relies make clear. At the May 26, 2023 hearing, Plaintiffs failed to present *any* colorable claim of violations of constitutional rights during the May 10 enhanced engagement. The purpose of discovery is not for Plaintiffs to dig up



evidence that *might* compensate for their apparent inability to substantiate the prior request for sanctions.

Plaintiffs obtained, on scant evidence, an order granting preliminary injunction from the Court. But Plaintiffs are not the arbiters of compliance with that order. Nor is there a plaintiff in this case who was allegedly aggrieved by the May 10, 2023 enhanced engagement. At the May 26 hearing, Judge Snow expressed skepticism (to put it kindly) that Plaintiffs can state a colorable claim for a violation of the Court's order. The City is not required to indulge Plaintiffs' fishing expedition. If Plaintiffs have reason to believe that evidence exists that will show a violation occurred, we can revisit this request. But at this point, the basis for this request is, according to your letter, that Plaintiffs don't know what they don't know until the City gives them what they've asked for. That is not a valid basis for discovery. Consequently, the City stands by its previously stated objections to Request for Production No. 3.

Request for Production No. 4

This request seeks records of “[a]ll communications with any shelter, including CASS and the Washington Street Shelter, concerning the May 10 Sweep, shelter capacity, and/or shelter bed availability.”

Some explanation may be helpful. As City representatives have previously testified, and as they recently testified in the state court litigation in *Brown et al. v. City of Phoenix*, there is no single source through which City staff learns about shelter capacity and availability – or any written source, for that matter. Rather, most of the information about shelter capacity and availability comes through person-to-person phone calls. This information is shared in real time and is generally not written down. Although the City responded to this request by providing daily bed count emails from, for example, CASS and St. Vincent de Paul reflecting such capacity and availability, those emails are exceptions to the norm.

The City confirms that the documents produced in response to this request detail the responsive documents of which the City is in possession. No responsive documents have been withheld, either on the basis of a stated objection or on any other basis.

The City has located the Thursday, May 11, 2023 CASS email, which is enclosed herewith. The City will provide a supplemental disclosure. Finally, the City notes that the attachments to the emails can be accessed via the embedded links in the documents themselves by right clicking on the link and clicking “Open File.”

Sincerely,

/s/ Aaron D. Arnson

Aaron D. Arnson

Enclosure: As noted

EXHIBIT 3

From: azddb_responses@azd.uscourts.gov
To: azddb_nefs@azd.uscourts.gov
Subject: [EXTERNAL] Activity in Case 2:23-cv-02215-SMB Blunt et al v. Gilbert, Town of et al Vacate Hearing
Date: Thursday, December 7, 2023 8:25:59 AM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

DISTRICT OF ARIZONA

Notice of Electronic Filing

The following transaction was entered on 12/7/2023 at 8:24 AM MST and filed on 12/7/2023

Case Name: Blunt et al v. Gilbert, Town of et al

Case Number: [2:23-cv-02215-SMB](#)

Filer:

Document Number: 8(No document attached)

Docket Text:

IT IS ORDERED the Telephonic Case Management Conference presently set for 12/13/2023 at 8:45 AM before Judge Susan M. Brnovich is VACATED to be reset upon ruling on the pending Motion to Dismiss. Ordered by Judge Susan M. Brnovich. (ESG)(This is a TEXT ENTRY ONLY. There is no PDF document associated with this entry)

2:23-cv-02215-SMB Notice has been electronically mailed to:

Steven James Serbalik stevenserbalik@gmail.com

Aaron Dean Arnson aaron@piercecoleman.com, judy@piercecoleman.com,
kaylay@piercecoleman.com

2:23-cv-02215-SMB Notice will be sent by other means to those listed below if they are affected by this filing:

report this email as spam.

EXHIBIT 4



Direct: 602 962 2969 Main: 602 609 3800 Fax: 602 962 2969 Email: ben.rundall@zwfirm.com Web: www.zwfirm.com

November 17, 2023

Office of Homeless Solutions
Phoenix City Hall
200 W. Washington Street
Phoenix, Arizona 85003

Re: Public Records Request

Dear Custodian of Records:

Our firm has been retained by the American Civil Liberties Union of Arizona (ACLU-AZ) to request and obtain certain public records maintained by your office pursuant to Ariz. Rev. Stat. § 39-121 *et seq.* The ACLU-AZ is a local nonprofit organization with thousands of members across the state of Arizona. The ACLU-AZ “advances equity and dismantles systemic injustice by taking legal action, influencing policy, and mobilizing our communities to protect the civil rights, liberties, and dignity of all Arizonans.”

This request is being made for a non-commercial purpose. Specifically, please produce copies or allow examination of the following:

1. All communications to or from any Office of Homeless Solutions employee including any of the following search terms: the “Zone”, “12th Avenue and Madison”, “sweep”, “Human Services Campus”, “enhanced cleanup”, “clean-up”, “engagement event”, “cleaning”, “connection efforts”, “Brown”, “nuisance”, “Fund for Empowerment”, “FFE”, “encampment”, “Heat-related deaths”, “Heat-related illness”, “heat relief”, “heat mitigation”, “shelter”, “unsheltered,” “unhoused”, “sleeping ban”, “camping ban”, “trespassing”, and “campground” from January 1, 2022 to present.
2. All documents and communications related to individualized assessments of unhoused individuals performed from May 2023 to present.
3. All policies and procedures pertaining to encampments, including but not limited to, clearing encampments, offering housing placements to unhoused individuals, storage of unhoused people's belongings, and involvement of police at encampments.
4. All documents—including but not limited to logs, records, and communications—related to property stored for unhoused individuals from May 1, 2023 to present.

November 17, 2023

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5. All contracts, agreements, and memoranda of understanding between the City of Phoenix and any shelter, hotel, or other indoor or outdoor space where unhoused individuals sleep from January 1, 2022 to present.

We understand that some of the records listed above may be more readily available than others. If so, please provide the available records as soon as possible and do not wait to provide access to all records at one time.

To the extent you believe any materials responsive to this request are exempt from release, please produce the non-exempt portions and identify what portions are withheld and the reasons for that withholding.

We expect that you will respond to this request by **December 15, 2023**. A.R.S. § 39-121-01(D)(1) requires the custodian “of such records” to “furnish” them “*promptly*.” A failure to promptly respond to this public records request may result in our filing a special action, as authorized by A.R.S. § 39-121.02.

Please contact me by phone or fax at (602) 962-2969, or by email at ben.rundall@zwfirm.com, rather than mail if you have any questions regarding this request. If feasible, I ask that electronic copies of documents be provided rather than paper copies. The requested documents can be emailed to ben.rundall@zwfirm.com.

Thank you in advance for your anticipated cooperation in this matter.

Sincerely,

ZWILLINGER WULKAN PLC



Benjamin L. Rundall
For the Firm

BLR:cp