



20 E Main St Suite 750
PO Box 1466
Mesa, Arizona 85211-1466

CERTIFIED MAIL # 91 7108 2133 3939 4779 9773

June 12, 2018

Mr. Steven Pietrzykowski
Balar Equipment
11023 North 22nd Avenue
Phoenix, AZ 85029

RE: Appeal of Protest Decision
Request for Proposals #2018111 ("RFP")
2018 or Newer Automated Side Loading (Ram-Eject) Refuse Trucks

Dear Mr. Pietrzykowski:

This letter is in response to your request to appeal a protest decision of the Protest Officer for the City of Mesa ("City") related to the above RFP. I am the designee of the City Manager charged with rendering the decision on your appeal. The City Procurement Rules provide me with the authority to determine the decision on the appeal without a hearing. After investigating your claims and considering the facts in the matter, I am denying your appeal and upholding the decision of the Protest Officer for the reasons set forth below.

1. All claims raised in your protest letter of May 10, 2018 were fully and adequately addressed by the Protest Officer's response of May 31, 2018. The information provided in your appeal letter did not provide any additional information that would demonstrate a factual or legal error occurred in the Protest Officer's analysis. The Protest Officer properly investigated your claims and determined that the trucks met the specifications of the RFP.
2. As part of my investigation on the appeal, I met with the Fleet Services director who informed me that on May 21, 2018, staff from several departments worked with Amrep, Inc. and Rush Trucks to measure two types of trucks, including the standard model which the City selected. While there may have been some issues with the model that is used by the City of Phoenix, staff confirmed that the standard model's dimensions met statutory requirements and also verified that the automated loading mechanism on the standard model can meet the eight second requirement from the RFP. As such, we are not in violation of Rule 7.1(C)(3) as you allege in your appeal letter.
3. Furthermore, Amrep, Inc. and Rush Trucks provided the Protest Officer with a letter attesting that the standard trucks the City selected would be both within the 102 inch and the eight second requirements.

4. As the trucks were found by City staff to meet the required specifications and both Amrep, Inc. and Rush Trucks verified that the requirements would be met, I find that the grounds for your appeal are denied.

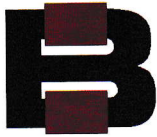
This letter will serve as the City's final decision on your request for appeal in accordance with Section 6.4 of the City Procurement Rules which are available at <http://www.mesaaz.gov/purchasing> under Policy Documents. The City appreciates the time and effort that went into your response to the RFP and encourages your participation in future City solicitations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Kennington', with a stylized flourish at the end.

Michael Kennington
Chief Financial Officer

CC: Ed Quedens, Business Services Director
Matt Bauer, Procurement Administrator
Kelly Gegan, Assistant City Attorney



SALES ♦ RENTALS ♦ PARTS ♦ SERVICE

BALAR EQUIPMENT

11023 N 22ND Avenue • Phoenix, AZ 85029
602/944-1933 • FAX 602/944-9687 • WWW.BALAR.COM

Mr. Ed Quedens, Chief Procurement Officer
City of Mesa, Arizona, Purchasing Department
20 East Main Street
Mesa, AZ 85201

June 6, 2018

Per City of Mesa Procurement Rules, Article 6, Section 6.4, this letter will serve as Balar Equipment's appeal of the protest officer's decision regarding Balar Equipment's protest of the intent to award the contract for solicitation number 2018111 for "2018 or newer automated side loading (ram-eject) refuse trucks" to Rush Trucks with the Amrep Inc. refuse body.

In the protest letter we submitted via e-mail on May 10, 2018, Balar Equipment referenced two issues with the Amrep unit; refuse body width and collection arm cycle time. In an Amrep demonstration with the City, Balar's issues were confirmed. Although our issues were confirmed, the City of Mesa appeal response letter misrepresented the facts to make it appear otherwise. There were gross factual errors in the protest decision.

Gross factual errors cited/clarified:

1. In the City's response to Item 1, the City states, "The City does not refute the validity of the State law and found the truck dimensions will be in compliance when delivered."

Balar's Response: The demonstration unit that Amrep provided was actually over-width and not in compliance with the State law at the time of the solicitation, therefore Balar's contention is sustained. If indeed their solicitation response was submitted as "meets" in this item of the technical specifications, it is in direct violation of the City of Mesa Procurement rules Article 7, 7.1C3 "Intentionally offer or provide sub-standard materials or services or to intentionally not comply with any term, condition, specification or other requirement of a City contract." Per the documentation I provided with the protest, they were aware of this issue as it has been an ongoing issue with the City of Phoenix prior to the Mesa solicitation.

In the City's response to Item 1, the City states, "The truck body dimensions were verified in person by City staff on May 21, 2018, as well as attested to in writing by Amrep, Inc. and Rush Trucks, **proving the truck dimensions will meet the statutory requirements.**"

Balar's Response: The body dimensions were absolutely verified on the demonstration unit and **did not** meet statutory requirements at that time therefore sustaining Balar's contention. The Amrep letter actually admits to **not** being compliant with State law with their standard production model. Writing a letter doesn't "**prove**" anything in terms of meeting specifications or make it factual.

City of Mesa Detailed Specifications, Item 23, Demonstrator Units:

Item 23 states, "The demonstrator unit must meet these specifications. Inability to provide a demonstrator or acceptable alternative may be grounds for rejecting the bidder's bid." The City actually did the opposite. Amrep supplied a demonstrator unit that didn't meet the specification, but the City still denied Balar's protest.

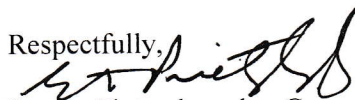
In the Amrep letter, Amrep states: "Amrep will furnish the standard ASL arm that is within the 102" requirement whether the clamp cart is stowed at the bottom or the top of the arm." Amrep's current standard ASL collection unit is wider than the 102" requirement. The City of Mesa Detailed Specification, Item 23 also states, "Manufacturer must be able to demonstrate a minimum of three (3) years of product history for the specific unit being offered." Any modifications to an automated collection arm is material and may change the lift geometry, dump angle, reach proximity, weight capacity, or hydraulic temperature. The resulting prototype units have not been in production for three years as specified and are not standard units.

2. In the City's response to Item 2, the City states, "the City reviewed your claim and verified that the automated loading mechanism on the Amrep Inc. trucks **can** meet the eight second requirement in the solicitation."

Balar's Response: The City's response letter misrepresents the current facts. In Amrep's current production model, operating the arm mechanism as required in the City's specifications does not comply without modifications. I personally timed these movements on a standard production model. The fastest time recorded was 25 seconds. You have to hold a button down to stow the grippers in the hopper that takes 7 seconds alone, not counting all the other movements required. It is a physical impossibility for the current standard Amrep arm to meet this requirement. This is another gross factual error.

The intended awardee does not currently meet State Law along with several key specifications while operating within the manner that the specification requires. The form of relief requested is that any offering with the Amrep refuse bodies be disqualified from bidding on this solicitation and the contract be awarded to the most compliant best value bidder with no past performance issues with the City of Mesa. In accordance with City of Mesa Procurement Rules, If the City does not decide to uphold this appeal, prior to any determination being made, I would like to request a hearing with the City's Chief Procurement Officer along with either City Manager Chris Brady or Assistant City Manager John Pombier.

Respectfully,


Steven Pietrzykowsky, General Manager
Balar Equipment,



20 E Main St Suite 400
PO Box 1466
Mesa, Arizona 85211-1466

CERTIFIED MAIL # 91 7199 9991 7037 7320 3097
mesaaz.gov

May 31, 2018

Steven Pietrzykowski
Balar Equipment
11023 North 22nd Avenue
Phoenix, AZ 85029
Fax: (602) 944-9687
stevep@balar.com

RE: Response to Protest of Intent to Award for RFB #2018111

Dear Mr. Pietrzykowski,

This letter will serve as the City of Mesa's ("City") response to your letter received by email on May 10, 2018 in which Balar Equipment ("Balar") protests the intent to award Request for Bid #2018111 for 2018 or Newer Automated Side Loading (Ram-Eject) Refuse Trucks ("Solicitation"). As stated in the Notice of Intent to Award, the Solicitation was awarded to Rush Truck Centers of Arizona dba Rush Truck Center Phoenix ("Rush Trucks").

This letter is being submitted to you in accordance with the City of Mesa Procurement Rules ("Procurement Rules") Section 6.3. After reading your letter, reviewing the claims in the Protest with staff from the City's Fleet Services department and the Procurement Officer for the Solicitation, I have made the decision that Balar's protest is denied; the City replies as set forth below to the arguments in the protest letter.

1. **Balar's Claim:** "The intended awardee does not meet State Law along with several key specifications while operating within the manner that the specification requires due to the Amrep refuse body and automated collection arm. Based upon ARS 28-1093, which states, any vehicle on Arizona roadways with equipment wider than 102 inches (with the exception of safety equipment) is illegal."

City's Response: The City reviewed your claim. The City does not refute the validity of the state law and found the truck dimensions will be in compliance when delivered. The truck body dimensions were verified in person by City staff on May 21, 2018, as well as attested to in writing by Amrep, Inc. and Rush Trucks, proving the truck dimensions will meet the statutory requirements. Please see the attached letter from Amrep, Inc. for additional information. As stated in the Amrep, Inc. letter,

the company attests they "will furnish the Standard ASL that is within the 102 requirement whether the clamp cart is stowed at the bottom or the top of the Arm."

2. **Balar's Claim:** "According to the City of Mesa Technical Specification, Automated Loading Mechanism - Arm section, Item 10 states 'In a stop/empty/go cycle route, the truck must be able to stop, engage, raise, empty, and restore a container to its original position, stow grip arms and start to the next container in no more than 8 seconds.' In this type of operating/collection process, the Amrep, Inc. refuse body is wider than 102 inches with the arm down in the engage position and is therefore out of compliance to be driven on any road in Arizona by State law and Mesa Technical Specification (Packer & Body - Construction, Item 13). It takes the Amrep, Inc. refuse body approximately 25 seconds for a full cycle to re-stow the automated arm back up in the hopper to be legal when the vehicle is in motion from container to container which prohibits the unit to meet Mesa Technical Specification (Packer & Body - Construction, Item 3)."

City Response: The City reviewed your claim and verified that the Automated Loading Mechanism on the Amrep, Inc. trucks can meet the eight second requirement in the Solicitation. Both the speed of the mechanism and body dimensions were verified in person by City staff on May 21, 2018, and agreed to in writing by Amrep Inc. and Rush Trucks. As stated above, the truck dimensions will meet the state law requirement. As it pertains to the eight second time requirement, in the Amrep, Inc. letter the company attests they "will furnish the Standard ASL that will meet the '8 second' requirement by the City."

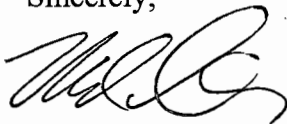
For the aforementioned reasons, Balar's protest is denied. Pursuant to the Procurement Rules Section 6.4, you may appeal this decision within seven (7) calendar days to the Chief Procurement Officer.

The City of Mesa Procurement Rules are available at <http://www.mesaaz.gov/business/purchasing> under Policy Documents.

Please address all correspondence to:

Chief Procurement Officer
City of Mesa
20 E. Main Street, Suite 450
Mesa, AZ 85201

Sincerely,



Matthew Bauer
Procurement Administrator



Rush Truck Center
9600 West Roosevelt Street
Tolleson, Az. 85353

5-21-2018

Attention: George Beal

Re: Concerns with The City of Mesa ASL Contract 2018111

Mr. Beal,

Per our Amrep ASL test and evaluation with the City of Mesa on 5-21-2018 Amrep will satisfy the two concerns from the Bid Protest submitted by Balar Equipment. See below:

- 1) Page 30 Automated Loading Mechanism, In a stop/empty/go cycle route, the truck must be able to stop, engage, raise, empty, and restore a container to its original position, stow grip arms and start to the next container in no more than 8 seconds.

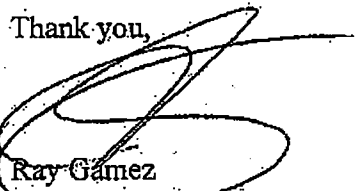
Response: Per the bid specifications Amrep will furnish the Standard ASL Arm that will meet the "8 second" requirement by the City.

- 2) Page 25 Body Dimensions: Maximum overall width shall not exceed 102 inches.


Response: Amrep will furnish the Standard ASL Arm that is within the 102 requirement whether the clamp cart is stowed at the bottom or the top of the Arm.

Please note the Amrep standard ASL arm has been in production for over 10 years, all of the components that are being offered by Amrep are all standard equipment. No test or "special" parts will be offered. Let me know if you have any questions.

Thank you,



Ray Gamez
Municipal Sales Manager
(909) 923-0430 x105



Signature of Prime Contractor (Rush Truck Center of Arizona)

City of Mesa, Arizona, Purchasing Department
20 East Main Street
Mesa, AZ 85201

Balar Equipment
11023 North 22nd Avenue
Phoenix, AZ 85029

Per City of Mesa Procurement Rules, Article 6, Balar Equipment would like to protest the intent to award the contract for solicitation number 2018111 for "2018 or newer automated side loading (ram-eject) refuse trucks" to Rush Trucks with the Amrep Inc. refuse body. The intended awardee does not meet State Law along with several key specifications while operating within the manner that the specification requires due to the Amrep refuse body and automated collection arm. Based upon ARS 28-1093, which states, any vehicle on Arizona roadways with equipment wider than 102 inches (with the exception of safety equipment) is illegal. Freightliner Trucks has also submitted a bid on an Autocar chassis with the Amrep Inc. refuse body.


According to the City of Mesa Technical Specification, Automated Loading Mechanism – Arm section, Item 10 states "In a stop/empty/go cycle route, the truck must be able to stop, engage, raise, empty, and restore a container to its original position, stow grip arms and start to the next container in no more than 8 seconds." In this type of operating/collection process, the Amrep Inc. refuse body is wider than 102 inches with the arm down in the engage position and is therefore out of compliance to be driven on any road in Arizona by State law and Mesa Technical Specification (Packer & Body – Construction, Item 13). It takes the Amrep Inc. refuse body approximately 25 seconds for a full cycle to re-stow the automated arm back up in the hopper to be legal when the vehicle is in motion from container to container which prohibits the unit to meet Mesa Technical Specification (Packer & Body – Construction, Item 3).

Rush Trucks also submitted a bid with the McNeilus body with a similiary designed collection arm which is also non-compliant for the same issue. In 2014, The Town of Gilbert cancelled an order for this reason. I have attached a copies of:

- The State Law regarding legal vehicle width when in motion, ARS 28-1093;
- A recent electronic communication to Balar Equipment from the City of Phoenix Deputy Public Works Director – Fleet Services stating that this vendor (Amrep inc.) acknowledges this non-compliance issue and requests them to stow their arm when in motion;
- A schematic of the automated arm from McNeilus so you have visual representation of both designs, and;
- The interpretation of the State Law in regards to truck width from the Town of Gilbert, Arizona Police Traffic Enforcement Division in 2014 regarding the width issues of this design.

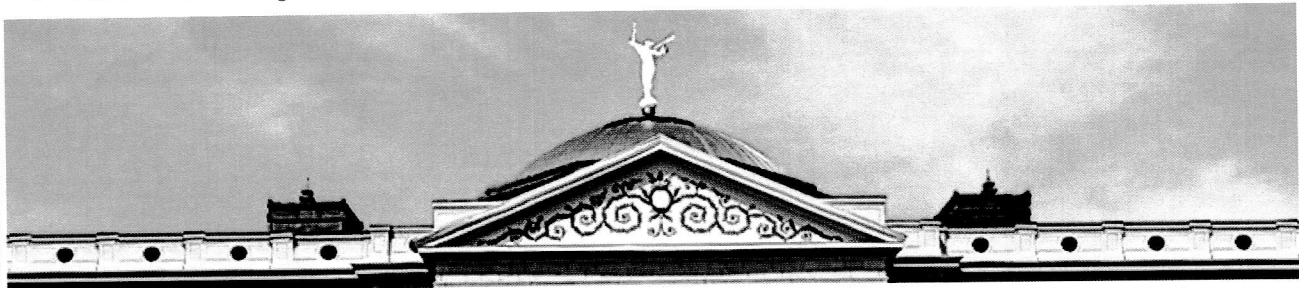
It is difficult for collection vehicle operators to gauge the distance of the arm sticking out past the tires as they pass stationary objects and they can easily collide with cars creating significant liability issues for the City.

The form of relief requested is that any offering with the Amrep or Mcneilus refuse bodies be disqualified and the contract be awarded to the most compliant best value bidder with no past performance issues with the City of Mesa. Thank you for your attention on this matter.

A handwritten signature in black ink, appearing to read "Steve Pietrzykowsky".

Steven Pietrzykowsky, General Manager, Refuse Division
Balar Equipment, stevep@balar.com
Telephone - (602) 722-0132, Fax – (602) 944-9687

Arizona State Legislature

Bill Number Search: 

Fifty-first Legislature - Second Regular Session

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A. Except as otherwise provided in subsections B and C of this section and section 28-627, the total outside width of a vehicle or the load on the vehicle shall not exceed eight feet.

B. If pneumatic tires, in substitution for the same type or other type of tires, are placed on a vehicle in operation on July 1, 1950:

1. The maximum width from the outside of one wheel and tire to the outside of the opposite wheel and tire shall not exceed eight feet six inches.
2. The outside width of the body of the vehicle or the load on the vehicle shall not exceed eight feet.

C. A person may operate a vehicle with a total width of the vehicle or the load on the vehicle of not more than one hundred two inches, exclusive of safety equipment, on:

1. Any segment of the national system of interstate and defense highways.
2. Any other qualifying federal aid highway.
3. Any state highway, as designated by the director.
4. Streets that are designated by a local authority as follows:
 - (a) The local authority may designate the streets by signage of the allowable streets or by maintenance of a map or list of allowable streets as approved by a resolution of the local authority.
 - (b) In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A highway that reasonably accesses interstate system highways, federal aid highways or state highways from terminals and facilities that provide food, fuel, repairs and lodging or from emergency medical facilities.

D. Notwithstanding subsections A, B and C of this section, the total outside width of a noncommercial recreational vehicle as defined in section 41-2142 may be more than one hundred two inches if the excess width is attributable to recreational vehicle appurtenances that do not extend beyond the exterior rearview mirrors of the recreational vehicle or tow vehicle and the rearview mirrors only extend the distance necessary to provide the appropriate field of view for the vehicle before the appurtenances are attached. For the purposes of this subsection, "recreational vehicle appurtenance":

1. Includes:
 - (a) An awning and its support hardware.
 - (b) Any appendage that is intended to be an integral part of the recreational vehicle and that is installed by the manufacturer or dealer.
2. Does not include an item that is temporarily affixed or attached to the exterior of the recreational vehicle by the vehicle's operator for the purpose of transporting the item from one location to another location.

keith.carbajal@phoenix.gov

Gmail

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Important

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Steven

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More

1 of 5

Re: Follow-Up - IFB 17-FSD-103 (Automated Side-Load "Group B" Bid) Compliance

Inbox x

Steven Pietrzykowski

Keith, On several occasions since July, I have brought contract specification...

Feb 13

Steven Pietrzykowski

Keith, Just wanted to follow up to see if you were able to verify my findings...

Mar 2

Ginger Spencer

Steve, I'm sure Keith is in receipt of your email. I'm also looping in Tamie ...

Mar 2

Steven Pietrzykowski

Ginger, Thanks, I appreciate it! I remember how e-mails can build up. I knew ...

Mar 2

Keith Carbajal <keith.carbajal@phoenix.gov>

to Felipe, me, Ginger, Steven, Linda, Joe, Tamie

Mar 8

Steve,

Our team met with the contracted vendor to discuss the items in question and they acknowledged that the hydraulic cooling fan and valve test port extended beyond the 102" requirement. They will be relocating both of those components to comply with Arizona and federal requirements. The correct stow position for the Amrep arm when it is in travel mode is in the up position with the gripper fingers open, the 102" requirement is met.

The other point was concerning the wheel base. The wheel base was not defined in the specifications of the bid. The contracted vendor chose the current wheel base to maximize pay load, have even weight distribution on all three axles, and not diminish maneuverability. This is not a material change to the contract.

Thank you your continued support ...

No Hangouts contacts

[Find someone](#)

Keith Carbajal
Fleet Services Deputy Director
Public Works Department
City of Phoenix
602-262-7030

From: Steven Pietrzykowski [mailto:ceiprincipal@gmail.com]

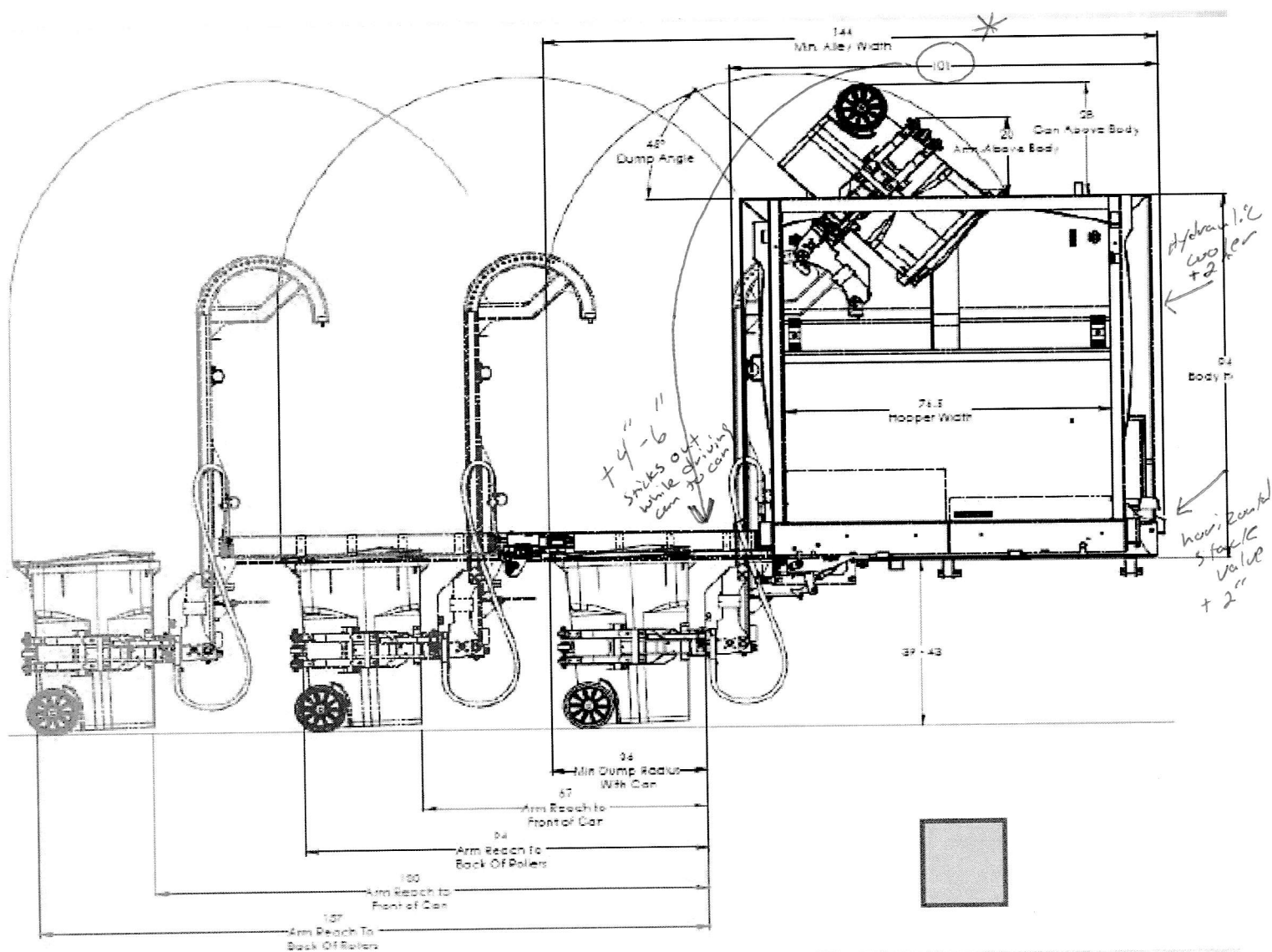
Sent: Friday, March 2, 2018 6:23 PM

To: Ginger Spencer <ginger.spencer@phoenix.gov>

cc: Steven Pietrzykowski <stevan@phoenix.gov>; Keith Carbajal <keith.carbajal@phoenix.gov>; Linda Duarte <linda.duarte@phoenix.gov>; Inc

6 ft reach is in blue
12 ft reach is in red

Dump angle 45 degrees



Extension	130"	67"
Reach	157"	94"

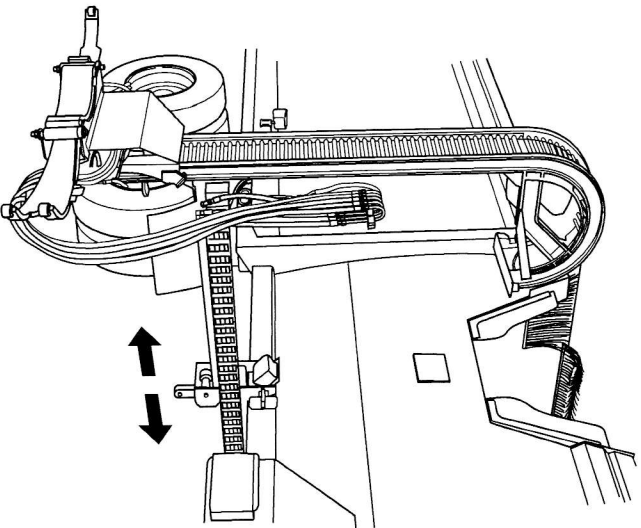


Figure 21

Steven Pietrzykowski

From: William Balafas
Sent: Tuesday, August 19, 2014 9:37 AM
To: Steven Pietrzykowski
Cc: Darren Bryant
Subject: FW: Solid Waste Collection (CDL) Vehicle Width Interpretation

Steven,

I got caught up with work stuff and completely overlooked the fact that you needed an answer last week.

It sounds like you already have the answer, ARS 28-1093 will dictate the total width of any vehicle on the roadway as being no greater than 102 inches.

There are no exemptions that I can find which would allow any part of your truck to extend beyond that width.

In short, if the vehicle is going to be traveling on a roadway and is greater than 102 inches in width, it will be in violation of this statute.

I hope this helps,

Bill Balafas
Sergeant, Traffic
Gilbert Police Department
75 E Civic Center Drive | Gilbert, AZ 85296
480-635-7224
Email: William.Balafas@gilbertaz.gov

-----Original Message-----

From: Darren Bryant
Sent: Wednesday, August 13, 2014 9:30 PM
To: William Balafas
Subject: FW: Solid Waste Collection (CDL) Vehicle Width Interpretation

Sarge,

I called him today and got some background. These arms will stick out 18 to 24 inches from truck while moving. He just wanted to have our opinion on it. I told him I would refer you to him and try to get him answer by tomorrow afternoon.

He is new and this was done before he arrived. He has concerns that the drivers will take out cars or possibly a pedestrian. Says these new trucks will require twice as many arm movements resulting in more wear/tear in trucks. Additionally, they will be slower on routes.

He sounds like he is knowledgeable of fmcsa rules. If they stick out that far then that is definitely past the allowance of a.r.s. With regards to the width.