City of Phoenix
OFFICE OF THE CITY ATTORNEY

Date: January 3, 2018

To: Ed Zuercher, City Manager

From: Brad Holm, City Attorney

Subject: Supplemental Report—Burton Barr Library's Preaction Fire Sprinkler System (Phoenix Fire Department's Code-Enforcement Role)

Introduction

On July 15, 2017, a windstorm disturbed the Burton Barr Central Library roof, releasing dust that the fifth-floor smoke-detection system interpreted as smoke. In turn, the fire-sprinkler system, which is a dry preaction system, was charged with water. Although no fire sprinkler heads activated, the system discharged copious amounts of water into the building through holes in sprinkler-system pipe. The holes were caused by corrosion.

Based on our investigation of the incident, we believe that before July 15 the Phoenix Fire Marshal and Phoenix Fire Prevention had reason to know that the fifth-floor fire sprinkler system did not conform to the Phoenix Fire Code. They also should have known that, if activated, the system's corroded pipe would likely cause substantial water damage to the Library. System conditions made it impossible to predict *before July 15* whether the system could produce sufficient water pressure and volume to suppress a fire *anywhere* and *everywhere* on the fifth floor, as it was designed to do.

To better understand the Fire Department's breakdowns that contributed to the July 15 event, the City of Phoenix Human Resources and Law Departments investigated Fire staff's responsibility to review, analyze, and respond to sprinkler-system deficiency reports. The investigation focused on the time period between August 2016 and July 15, 2017. HR investigators interviewed or sought written testimony from 14 subjects and witnesses.

Methodology

Employees answered questions in writing or orally during individual interviews. Investigators also interviewed third-party witnesses, including Aaron Bennett and Bill Rogers, who are employed by the fire sprinkler system contractor (RCI), and Ryan Clark, who is employed by the fire-alarm panel contractor (American Fire).

HR investigators reviewed relevant documents: the Phoenix Fire Code, job descriptions, City policies and procedures, the Phoenix Fire Department website, employee performance-related documents, organizational charts, fire-inspection reports, and Fire Department working documents and policies.

These witnesses gave statements and other information to investigators:

- Kara Kalkbrenner, Fire Chief
- Kelvin Bartee, Assistant Fire Chief
- Dave Carter, Deputy Fire Chief and former Interim Fire Marshal
- Michael Ong, Deputy Fire Chief
- Jack Ballentine, Former Fire Marshal
- Michael Abegg, Fire Marshal
- Joseph Bonnell, Fire Captain
- Craig Suber, Firefighter
- Becki Mitchell, Data Control Specialist
- Elizabeth DeLaCruz, Records Clerk II
- Pete Flores, Facilities Projects Planner

Background

Phoenix Fire Code

The City of Phoenix adopted the Phoenix Fire Code to "establish the minimum requirements . . . for providing a reasonable level of life safety and *property protection* from the hazards of fire . . . [and] dangerous conditions in new and existing buildings . . . and *to provide safety to firefighters and emergency responders* during emergency operations."[1] The Code applies to all existing buildings and to new construction.[2]

Fire Prevention is the Fire Department's division dedicated to "life safety and property protection for the community and first responders through inspection, education, and *[code] enforcement*."[3] Accordingly, the Code expressly confers enforcement authority on the Fire Marshal and Fire Prevention Division.[4] This authority includes the power to take

[1] Phoenix Fire Code (PFC) § [A] 101.3 (emphasis added), *available at* https://www.phoenix.gov/fire/prevention/fire-code (last visited Nov. 10, 2017).
[2] *Id.*; *See also* PFC §§ [A] 107.1, 901.1 *et. seq.*
[3] Fire Prevention Mission Statement (emphasis added).
[4] PFC § [A] 103.1 ("The function of [Fire Prevention] shall be the implementation, administration and enforcement of the provisions of this code."); PFC § [A] 103.2; PFC § [A] 104.1 ("The Fire Marshal is hereby authorized to enforce the provisions of this code . . . . [The Marshal's enforcement] . . . shall not . . . waiv[e] requirements specifically provided for in this code.").

action against a building owner whose failure to properly maintain a fire-protection system results in a deficiency that creates a life-safety risk.[5]

Phoenix Fire Marshal

The City employs a Fire Marshal whose job it is to eliminate life-safety risks by enforcing the Code. The "fundamental reason [the position] exists is to manage the Phoenix Fire Code within the City."[6] The position requires the Marshal to know the Code, fire-prevention principles, and fire-protection systems.[7] The current Marshal (Michael Abegg) reports to the Fire Department's Deputy Chief over Fire Prevention (Michael Ong), who in turn reports to the Assistant Chief for Fire Prevention (Kelvin Bartee).[8]

We conclude that the Code requires the Fire Marshal and Fire Prevention to investigate code deficiencies and enforce the Code as necessary to protect persons and property (*including firefighters* and other first responders). In accordance with the Code and the Marshal's job description, Chief Kalkbrenner has made clear that: "[t]he duty for review of documents or being aware of any impairment(s) affecting the Burton Barr Library resides with the Fire Marshal and Fire Prevention Staff."[9]

Two former Marshals understood this responsibility.

First, Jack Ballentine developed a process for the Marshal's office to review and address code violations documented in annual fire-sprinkler system inspection reports (also known as "deficiency reports"). He intended that the process would consistently address and resolve deficiencies documented in inspection reports. This process covers public and private buildings, including the Library.

Second, former Interim Fire Marshal Dave Carter understood that the Marshal must address and resolve fire-protection system deficiencies:

> As a past Interim Fire Marshal, I relied heavily on the Fire Protection Engineers, Fire Prevention Specialists (aka, Inspectors), and administrative staff to perform the necessary tasks to investigate, inspect, recheck, and document *all findings and actions related to inspections*. For occupancies

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[5] *See, e.g.*, PFC §§ [A] 104.1, 104.15, 901.7.
[6] Exhibit 1.
[7] *Id.*
[8] The Phoenix Fire Code and the Phoenix City Code (PCC) contemplate a different reporting structure—specifically, that the Fire Marshal oversees Fire Prevention. PFC § [A] 103.1; PCC, Chapter 2, Article V, Section 2-142(b). This is not the City's practice.
[9] PFC § 104.15 ("[The] Fire Marshal is authorized to administer and enforce this code. Under the Fire Chief's direction, the fire department is authorized to enforce all ordinances . . . pertaining to . . . *[t]he maintenance of fire protection systems* or equipment . . . in buildings" (emphasis added)).

> where a significant fire protection or life safety issue(s) existed, I would ask for briefings (i.e., face-to-face; email; phone calls) to confirm findings, actions, *and resolution*. In such cases, I would also keep the Assistant Fire Chief of Fire Prevention apprised of the conditions.[10]

Regarding the Marshal's critical role, Fire Captain Joseph Bonnell said that his staff processed deficiency reports that documented Code noncompliance. The staff "would report deficiencies *to the Fire Marshal* and process all reports."[11] As a light-duty firefighter who helped process deficiency reports also acknowledged: "the Fire Marshal is ultimately responsible for the deficiency reporting process."

Deficiency Reports—An Enforcement Tool

The Code requires that each fire-protection system in the city must be operable, maintained in accordance with its original design, and inspected annually.[12] The City requires private inspection firms to record all Code noncompliance on an inspection form, also referred to as a "deficiency report."[13] If a system remains noncompliant for 30 days, a copy of the deficiency report must be sent to Fire Prevention.[14]

Importantly, when a fire-protection system is deemed out of service or impaired, the Code imposes specific duties on the Fire Marshal.[15] Based on Code requirements, the Marshal or Fire Prevention must contact the building owner and order that remedial action be completed within 60 days. If the building owner fails to promptly correct the deficiency, the Marshal or Fire Prevention must take more aggressive enforcement action, which may include issuing citations, imposing a mandatory fire watch, and (if appropriate) ordering the building closed.[16]

If a fire-protection system is deemed "out of service," it must be inspected by a fire-code official and addressed immediately—or the Marshal must impose a fire watch or close the building.[17] The Marshal performs a critical oversight role when "unplanned

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[10] Emphasis added.
[11] Emphasis added.
[12] PFC §§ 901.4, 901.6 ("Fire detection, alarm, and extinguishing systems . . . shall be maintained *in an operative condition at all times*, and shall be replaced or repaired where defective. All fire protection systems shall be inspected and tested annually." (Emphasis added.)).
[13] PFC § 901.6.2.2.
[14] PFC § 901.6.2.1; Exhibit 2 (Phoenix Fire Department Policy 901.6 & 901.7), *also available at* https://www.phoenix.gov/fire/prevention/fire-code.
[15] PFC § 901.7.
[16] Exhibit 2; PFC §§ 104.15, 901.7, 901.7.5.
[17] PFC §§ 901.7, 901.7.5 ("When unplanned impairments occur, appropriate *emergency* action shall be taken to minimize potential injury and damage." (Emphasis added.)).

[system] impairments occur." When impairments are discovered, the Marshal must take appropriate *emergency* action to minimize potential injury *and damage*.[18]

Contrary to Code, Assistant Chief Bartee (who has overseen Fire Prevention since February 2016) believes that deficiency reports are *not* intended to expose "non-functioning life safety systems." Instead, according to Bartee, reports merely direct building owners to maintain their systems. These two purposes are not mutually exclusive. But the Code's requirement that Fire Prevention must receive deficiency reports is meaningless if Fire Prevention need take no enforcement action on deficiencies to safeguard the public, first responders, and property.

Bartee acknowledges that inoperable systems should be reported to the Fire Department immediately. The Code indisputably requires this. If a building owner fails to report immediately, as in the case of the Library, a deficiency report prepared by a third-party contractor is precisely the mechanism by which Fire Prevention can learn of, and respond to, system deficiencies. In this case, the contractor did its part, but the Fire Marshal and Fire Prevention failed to perform their duties.

How the Fire Marshal Processes Deficiency Reports

When Jack Ballentine was appointed Fire Marshal in 2014, he became aware that fire-protection system contractors did not consistently submit deficiency reports to Fire Prevention, as required by Code. So he developed Phoenix Fire Department Policy 901.6-7 (effective May 27, 2014) to memorialize Fire Prevention's expectations of contractors.[19] The Policy explicitly advises contractors and building owners of the consequences for failing to submit deficiency reports to Fire Prevention. Later, when Deputy Chief Bartee became Acting Fire Marshal, he did not modify the Policy or the deficiency-reporting process.

Ballentine became Fire Marshal again in 2015. At that time, Ballentine beefed up the Fire Department's deficiency-reporting process by requiring fire-protection contractors to execute deficiency-reporting agreements or face losing their certification to inspect fire-protection systems in the City of Phoenix.[20] The agreements assured that deficiency reports would be filed to protect the public and first responders against fire dangers.

Ballentine also directed Becki Mitchell (Data Control Specialist) to develop a system for: (1) *tracking* reported deficiencies to ensure that they were resolved; (2) *contacting* building owners about deficiencies; and (3) assigning Fire Prevention employees to *inspect* deficiencies. Mitchell gave investigators a July 2015 draft Fire Department Management

[18] *See*, PFC § 901.7.5.
[19] Exhibit 2.
[20] Exhibit 3.

Procedure. This Management Procedure memorialized staff's step-by-step process for reviewing and responding to deficiency reports.[21] Although the Procedure was never formally adopted, it was posted in cubicles where deficiency reports were reviewed and processed.

Ballentine directed light-duty staff and a Records Clerk II to review and docket the reports when they came in, contact building owners, and ensure that an inspector assessed systems that remained noncompliant. Ballentine assigned Fire Captain Joe Bonnell to oversee the program. Yet Bonnell responded evasively when asked about the Fire Marshal's deficiency-reporting process.[22]

Although not all witnesses agree, Ballentine asserts that both inspectors and administrative staff were adequately trained to process and address deficiency reports.[23] Ballentine notes that report processing does not require in-depth technical knowledge about fire-suppression systems for two reasons: (1) the reports identify deficiencies that must be communicated to building owners (who themselves are typically laypersons); and (2) subject-matter experts (inspectors and engineers) are available to assist staff to interpret reports. Additionally, the process required a Fire Prevention inspector—a subject-matter expert—to inspect the system if the deficiency was not resolved.

The Fire Code, Fire Department Policy 901.6-7, and the draft Management Procedure do not direct staff to treat city buildings differently than private buildings. But the Records Clerk allegedly asked Pete Flores in Public Works how she should process deficiency reports relating to city buildings. The Clerk says that Flores told her to send reports directly to him. Flores denies giving that instruction, and he denies that he received deficiency reports related to the Library. Inexplicably, the Records Clerk did not ask her chain of command what to do with public-building reports.

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[21] Exhibit 4.

[22] Bonnell denies responsibility for processing deficiency reports: "[W]e as Fire Captains knew little about the processing or other handling of deficiency reports . . . . I have little knowledge on the deficiency reporting process." When asked to identify his staff that reviewed the reports, Bonnell said that he did not understand the phrase "your staff." He added: "I cannot be sure *as to anyone's exact responsibilities related to the deficiency reporting process*—to my knowledge, I did not receive training or instruction as to how these individuals processed the reports (if they were involved at all)." (Emphasis added.) But when answering another question, Bonnell said: "*My staff* would report deficiencies to the Fire Marshal and process all reports." (Emphasis added.)

[23] Becki Mitchell trained the Records Clerk on the deficiency-reporting process, but the training was minimal because her duties were "self-explanatory." The process does not require the Records Clerk to analyze the reports. He or she enters information into a spreadsheet, communicates with building owners, tracks compliance, and assigns a city fire inspector to assess unresolved deficiencies.

The Records Clerk asserts that before July 15, 2017, she sent all city-building deficiency reports to Flores. She then *discarded* them without logging them for follow-up, sending enforcement-related communications to the building "owner," or dispatching an inspector to evaluate the deficiencies.[24] This conduct materially deviated from the Records Clerk's responsibility under the established deficiency-reporting process. And her conduct resulted in the destruction of public records. Importantly, Flores denies receiving the two critical RCI reports about the Library's defective preaction system.

The deficiency-reporting process became uncertain and unsupervised after Ballentine left. He transferred out of the Marshal position (again) in May 2016. Chief Kalkbrenner then split the Marshal's responsibilities between the Assistant Chief over Fire Prevention (Bartee) and the Deputy Chief over Fire Prevention (first Dave Carter, then Michael Ong) as a stop-gap measure until a new Fire Marshal could be hired.

Bartee was formally appointed as "Acting Fire Marshal." But according to Chief Kalkbrenner, Bartee was not responsible for daily operations of the Fire Marshal's office or for its staff. The daily operations—and the responsibility to oversee the deficiency-report process—fell to the Deputy Chief (first Carter, then Ong). As Assistant Chief over Fire Prevention, Bartee was responsible to ensure that each Deputy Chief knew and understood all of his *de facto* Fire Marshal responsibilities.

In August 2016, when Carter transferred, Ong assumed responsibility for the Fire Prevention Division (and the Marshal's daily operations). It appears that after May 2016, the Records Clerk began to devote less time and effort to the deficiency-reporting process. And a backlog of deficiency reports ensued. Ong denies that he was ever informed before May 2017 about the deficiency-reporting process or Fire Prevention's responsibility for it.

Yet, according to Chief Kalkbrenner and Bartee, Ong remained the sole person assigned to oversee the Marshal's daily operations from August 2016 through January 16, 2017. On that date, the City hired Michael Abegg as the new Fire Marshal. Ong retained supervisory responsibility for the Marshal position after Abegg was hired. But Ong was no longer directly responsible for the office's daily operations, which became Abegg's duty. In turn, Ong continued to report to Bartee.

The Library Deficiency Reports

To review: the fifth floor of the Library was equipped with a "preaction" fire-sprinkler system, designed to fill with water only when sensors detected smoke or heat from a fire. Individual sprinkler heads activate only by heat, and once activated, distribute water only to the specific area of fire.

[24] It is unclear if the Records Clerk began sending all city inspection reports to Flores during Ballentine's tenure or later, under Ong.

By design, the sprinkler system's pipe was embedded in the roof. Therefore, the pipe could not be visually inspected. Consequently, the preaction system was equipped with air compressors to pressurize the piping, enabling staff to monitor the system's capacity to maintain pressure. When air pressure fell below a certain level, an alarm sounded to notify building security. If the compressors cycled on more frequently than could be accounted for by normal dissipation (or if they *stayed* on), this condition signaled leaks in the preaction system.

On August 31, 2016, a fire-sprinkler system contractor (RCI) attempted to inspect the Burton Barr Library's fifth-floor sprinkler system. RCI documented its findings in a report of the same date. The inspector marked "no" to the question, "Are all systems in service?" Under the heading "COMMENTS AND/OR DEFICIENCIES," the inspector wrote:

> *****AIR IS OFF TO BOTH SYSTEMS. ANY ALARM THAT WILL TRIP THE SOLENIODS [sic] CAN CAUSE POSSIBLE DAMAGE TO LIBRARY*****
>
> ****ALL PIPING ASSOCIATED WITH BOTH PREACTIONS IS **FULL OF HOLES AND WILL LEAK WATER** IF VALVES ARE TRIPPED****
>
> ****LOW AIR SWITCHES HAVE BEEN BYPASSED AND DO NOT REPORT AN ABNORMAL CONDITION TO FACP [fire alarm control panel]****
>
> ****IF PIPING IS FILLED WITH WATER AN **UNKNOWN AMOUNT OF WATER MAY BE LEAKED** ONTO THE FLOORS BELOW****[25]

The August 31, 2016 report was sent to Fire Prevention, as required by the Fire Code. At the time, Ong was responsible for the Fire Marshal's daily operations, including deficiency-report processing. Ong had only been in the position a few weeks. Significantly, Bartee had not instructed Ong regarding the Marshal's duty to address deficiency reports. Consequently, Ong did not review the RCI report. Fire Prevention staff—including (importantly) the Records Clerk—did not track it, communicate with the building owner (the Library), dispatch a city inspector, or escalate the problem. Instead, the Records Clerk alleges that she sent the report to Public Works, and she discarded her copy.

Again, Abegg became Fire Marshal in January 2017. He immediately became responsible for the Marshal's daily operations. By then, the August 31, 2016 deficiency report had likely been forgotten (if not discarded). But RCI attempted to inspect the Library's fifth-floor preaction system again in May 2017, approximately five months into Abegg's tenure. RCI's 2017 report indicated that the preaction system was *not* in service,

[25] Exhibit 5 (emphasis added).

and the report noted the *exact same deficiencies* as the 2016 report.[26] RCI sent the report to Fire Prevention. But the Fire Marshal's office failed to review the report, and Abegg conceded that he did not see it before July 15, 2017. Consequently, the Fire Marshal failed to take action to minimize life-safety risks created by the not-fully-operable systems.

Although Abegg alleges that there was a deficiency-report backlog when RCI's May 31, 2017 report was received, we are not confident for *two* reasons that he would have taken enforcement action had there been no backlog. *First*, he strenuously denies all responsibility for deficiency reports. *Second*, he alleges that the Library deficiency reports did not show that the preaction system would not function (even though the reports themselves said that not all systems were in service).

The water that coursed through the fifth-floor preaction system on July 15, 2017 gushed out of corroded pipe and damaged *all* of the Library's five floors and a portion of the book collection. The cost of repairs has not been finally determined. Preliminary estimates indicate that the damage could cost $10,000,000 to repair. The Library is expected to be closed for up to one year.

Organizational Failures

Fundamental Misunderstandings

1. The Fire Marshal's Responsibilities

The Code and the Fire Chief require the Fire Marshal to actively address and resolve fire-protection system deficiencies. For this reason, all deficiency reports must be sent to Fire Prevention. In contrast to the Code, both Bartee and Abegg disclaim responsibility to address and resolve system deficiencies identified in deficiency reports, contending that the duty to maintain a fire-sprinkler system falls *exclusively* on the building owner. While an owner is ultimately responsible for compliance, the owner's failure to maintain a fire-protection system obligates Fire Prevention to take enforcement action under the Code. This is the Fire Marshal's preeminent duty: to enforce the Code to protect people and property.

Abegg suggests that the City's decision to incorporate deficiency-reporting requirements into the Code lacks the force of other Code provisions because deficiency-reporting is not embedded in the International Fire Code itself. But the City Council enacted the deficiency-reporting requirement into law. In so doing, the Council in legal effect directed the Fire Marshal to address and resolve fire-protection system deficiencies. Indeed, the deficiency-reporting provision must have been important to Council precisely because Council went further than the International Fire Code to adopt the provision.

[26] Exhibit 6.

Abegg continues to deny that he is responsible as Fire Marshal to oversee deficiency-reporting. In support of this assertion, Abegg relies on an organizational chart indicating that the Records Clerk does not report to him. But the Fire Marshal's Code responsibilities do not depend on who is assigned to perform administrative and clerical tasks. Instead, the Marshal's job duties are determined by the City Code, the Fire Code, his job description, and his chain of command. And as mentioned, the Fire Chief believes that the Fire Marshal is obligated to address and resolve deficiency reports.

In contrast to Abegg's view, Ong says that he does not know whether deficiency reports are the Fire Marshal's responsibility, either under the Code or by the Marshal's job description:

> I don't know [whether the deficiency reporting process is a function of the Fire Marshal]. *I'm not that familiar with what the fire code requires for the deficiency reports*. We are still debating on what obligations we have as it relates to the fire code. . . . I don't know if [Fire Prevention should follow up on deficiencies]. That's part of the discussion. Is it our obligation to act on those? The code requires someone to send the deficiency reports to the Fire Department, *but I don't know that the code says the Fire Department's supposed to act on it*. I'm not a fire code expert, it may be an attorney that should determine that.[27]

Despite Ong's uncertainty about deficiency reports, when he learned (in May 2017) that they were not being processed and used to alert Fire Prevention to serious life-safety issues, he began to develop a plan to work through the backlog. Yet this plan as partially implemented in May 2017 failed to address RCI's May 31, 2017 report reiterating that the Library's preaction-system piping was significantly corroded. Recognizing his limitations, Ong relied on trained staff to analyze and triage the reports for enforcement action. Ong took this remedial action even before he knew who in Fire Prevention would ultimately be responsible for overseeing the process.

As previously noted, Bonnell disclaims all responsibility for having overseen the deficiency-reporting process, even though he directly supervised the Records Clerk who administers the program. Belying his disclaimer now, Bonnell previously included the deficiency-reporting process as a goal on the Records Clerk's annual performance-management guide (PMG) and rated her a "met" on that duty. He also praised her for having "expertise" in deficiency reports and modifying the report-handling process. It is difficult to reconcile Bonnell's evaluation of the Records Clerk with his claim now that he

[27] Emphasis added.

does not understand the process and had nothing to do with overseeing it.[28]

2. Deficiency Report Failures

As mentioned, Bartee and Abegg disclaim responsibility to address and resolve fire-protection system deficiencies identified in deficiency reports, like those in the Library's preaction system. Again, these significant deficiencies were graphically documented in RCI's August 31, 2016 and May 31, 2017 reports.

Bartee takes the position that deficiency reports are primarily intended to direct building owners to properly maintain their life safety systems—not to prompt enforcement action. And to the extent that Fire Prevention has a responsibility to respond to the information contained in the reports, it was not *his* responsibility despite his assignment as the Assistant Chief over Fire Prevention.

Abegg contends that he also bears no responsibility for the Library incident because (according to him and contrary to the Code) the Fire Marshal does not administer the deficiency-reporting process. Abegg further reasons that the Code requirement to immediately report an "out of service" system makes it improper for an inspector to include *serious* deficiencies in inspection reports: "systems out of service should *not* be reported to Fire Prevention through deficiency reports. . . . [D]eficiency reports are *only* for *non*-urgent deficiencies."[29] Applying this logic, an inspector would always be required to *exclude* deficiencies from his report if the system were *severely* impaired. But the Code goes further: it expressly requires that inspection forms should "identify *all* deficiencies found."[30]

During the investigation, Ong acknowledged that he did not manage the deficiency-reporting process in any way before May 2017, when he first became aware of deficiency reports.

3. Failure to Recognize Life-Safety Concerns

There may be an explanation why the Fire Marshal did not read the Library deficiency report or take enforcement action. Specifically, before Fire Prevention received the August 31, 2016 report, staff apparently abandoned (at least in part) Ballentine's deficiency-reporting process. Specifically, the Records Clerk apparently spent far less time processing reports. But even if staff had continued to process the reports, the Records Clerk routinely

[28] Although Bonnell supervised the Records Clerk II when the deficiency-report process was implemented, he was no longer her supervisor when either Library deficiency report was received. Information subject to ongoing investigation. [redacted]

[29] Emphasis added.

[30] PFC § 901.6.2.2 (emphasis added).

excluded city buildings from enforcement action. Therefore, it is unlikely that the Fire Marshal would have become involved with the Library preaction-system deficiencies.

But Fire Prevention's neglect of the May 31, 2017 deficiency report is perplexing. Both Ong and Abegg assert that, in May 2017, the Records Clerk and a Fire Prevention Specialist II raised questions about the deficiency-reporting process. Consequently, as mentioned above, Ong (with Abegg and staff) implemented a plan to review and prioritize unresolved deficiency reports. Staff was to begin reviewing *the most recent reports first* and work backward in time. Because the May 2017 report was sent to the City in early June, the Fire Prevention Specialist should have flagged it for escalation and follow-up. But that did not happen. It is unclear why.

The investigation also revealed that the Fire Marshal's understanding of a serious life-safety concern is more limited than that contemplated by the Fire Code. According to Abegg, had he read the report, he would have concluded that it merely identified *maintenance* concerns, "but [did] not represent a life and fire safety hazard."

We believe that Bartee and Abegg failed to recognize that the preaction system, which was out of service and "full of holes," posed a life-safety issue to Library patrons, employees, and first responders. And it created a significant property-damage risk to the building. Abegg contended that the system's known deficiencies merely increased the chance of water discharge, which he viewed as an ordinary *maintenance* concern for the building's owner. Even after having been made aware of the May 2017 Library deficiency report, Bartee contended: "[T]o the best of my knowledge no incidents to a life safety system necessitating an imminent threat to the public have been found to be reported in a deficiency report during my tenure as a manager in Fire Prevention."

But no one, including the Fire Marshal, could have predicted or controlled the location or rate of water flow through the corroded pipe because the system was impossible to inspect. The extent and location of "holes" in the pipe were completely unknown. Therefore, the reports should have alerted the Fire Marshal that no one could know whether the system would have had sufficient water pressure and volume to extinguish a fire anywhere and everywhere on the Library's fifth floor as the system was designed.

Abegg also apparently questions his enforcement role regarding city buildings. When asked at what point the Fire Marshal should become involved with impaired city-owned fire-sprinkler systems, such as the Library's, Abegg discounted the Marshal's ability to influence other departments. He asked rhetorically: "Could we have issued a citation? Public Works was deemed as the owner's agent. If we issued a citation for a fine or misdemeanor, it could go to the Prosecutor's Office. Do we want to do that for our own departments? *That seems extreme* and not representative of Fire Prevention's efforts to work with customers."[31]

[31] Emphasis added.

Process Failures

We identified *three* process failures.

First, the investigation revealed a failure to prioritize and monitor deficiency reports. The success of Ballentine's process rests primarily on a Records Clerk who had other duties and worked under an oft-changing reporting structure. No one effectively monitored her deficiency-reporting performance or decisions. The Records Clerk unilaterally and improperly determined that city buildings were exempt from enforcement action. And on her own, she destroyed deficiency reports relating to city buildings. To the extent that the Records Clerk believed that city buildings should have been excluded from the City's standard deficiency-report process, she should have sought direction from her supervisor. She did not. And yet, the Records Clerk received positive feedback for her "expertise" handling deficiency reports.

Second, the deficiency-report process apparently broke down (completely) after Ballentine left the Fire Marshal's office. The Records Clerk, her supervisors, and their chain of command share some responsibility for this failure.

Third, Fire Prevention leadership did not understand its Fire Code responsibilities. *No one* currently in Fire Prevention took responsibility for the deficiency-report enforcement process. Importantly, Bartee admittedly failed to implement or maintain procedures to address and resolve deficiency reports. And if he expected Ong and Abegg to enforce the Code on fire-protection system deficiencies, he failed to properly delegate that responsibility. The current Fire Marshal still deflects all responsibility for code enforcement related to deficiencies unless they are reported immediately to the City's alarm room.

These process failures in turn contributed to the Library's failure to repair its defective fire-protection system between August 31, 2016 and July 15, 2017. The defective system resulted in approximately $10 million of damage to the Library and the loss of use of a valuable public asset for approximately one year.

Individual Performance

1. Kelvin Bartee, Assistant Chief over Fire Prevention

In different roles, Bartee has overseen Fire Prevention since February 2016. Before then, Bartee held various positions in Fire Prevention. Of all city employees interviewed in this investigation, Bartee knows—or should know—the most about the Fire Code and deficiency reporting. He had a duty to train or ensure that subordinates were trained in these duties. But here, Bartee failed to properly communicate to Ong the Department's specific expectations of him in his capacity as Deputy Chief over Fire Prevention responsible for the Fire Marshal's daily operations.

Bartee also failed to comprehend the Library deficiency-reports—even after the fact. Bartee denies that any deficiency reports during his tenure in Fire Prevention indicated a serious threat requiring a Fire Department response. He did not understand that the reports warned of a fire-protection system not fully in service that in turn posed a serious risk to the Library and its patrons.

Bartee's NOI responses further demonstrate a lack of understanding regarding Fire Code requirements and the Fire Department's responsibility to enforce the Code. In fact, he repeatedly said that he took no action to improve or modify the deficiency-reporting process at any time during his multiple assignments in or over Fire Prevention. And during that time, the reporting process established by Ballentine degenerated into disorganization and deemphasis to the point that the backlog swamped the process.

Discipline is recommended. Appropriate range of discipline: demotion to termination.

2. Michael Ong, Deputy Chief over Fire Prevention

Ong joined Fire Prevention shortly before the August 31, 2016 Library deficiency report was received. He was unaware of his responsibility to oversee the daily operations of the Fire Marshal, including the obligation to address and resolve fire-protection system deficiencies in public buildings. Per the Fire Chief, it was Bartee's responsibility as Assistant Chief to ensure that Ong knew the responsibilities of his job assignment. When Ong learned that the deficiency-reporting process had been abandoned, he (and Abegg) worked on a plan to address the backlog and to assign subject-matter experts to evaluate each report, escalating serious issues in need of prompt enforcement action.

But Ong did not take a proactive approach to learn the full range of his job duties. But given the low priority placed on deficiency reports by Ong's supervisor, it may not have made a difference in this case. Yet Ong demonstrated a commitment to improve the process once he learned about it. It is possible that—with the right training and emphasis—process improvements made by Ong earlier could have resulted in the Fire Marshal requiring Public Works or the Library to take appropriate action based on the May 31, 2017 deficiency report.

Discipline is recommended. Appropriate range of discipline: letter of reprimand to suspension.

3. Michael Abegg, Phoenix Fire Marshal

The Fire Department hired Abegg as Fire Marshal in January 2017, five months before the May 2017 report was sent to Fire Prevention. Even now, Abegg completely disavows responsibility for code enforcement related to fire-protection system deficiencies indicated in inspection reports. And he fails to understand the importance of the Fire Marshal's enforcement role. During the investigation he was asked: "Why is there a copy [of

deficiency reports] sent to the Fire Prevention Division, what are we supposed to do with it?" Abegg responded: "That's a great question. We are trying to figure it out."

More fundamentally, Abegg doesn't understand that the Library deficiency reports document serious life-safety issues. Instead, he asserts that they describe mere maintenance problems. That assertion misses the point. The preaction system was inoperable (it could not be tested for over three years—from February 2014 to July 15, 2017); the compressors (key safety equipment that verified whether the system would work) had been turned off; the alarm panel had been bypassed; and no city employee or contractor knew how extensive the holes in the pipe were. Had the Fire Marshal read the May 2017 report and followed up, the totality of the circumstances discovered would have made clear that the preaction-system deficiencies were not garden-variety maintenance issues.

Discipline is recommended. Appropriate range of discipline: demotion to termination.

4. Jack Ballentine, Former Fire Marshal

Ballentine understood the importance of deficiency reports. He directed the creation of a process for addressing the reports and resolving fire-protection system deficiencies through enforcement action. He assigned staff to perform the duties associated with the process, and he actively supervised them. But his staff seemingly failed to fully comprehend their roles.

For example, Ballentine believes that he assigned oversight of the deficiency-reporting process to Captain Bonnell. But Bonnell denies that he was responsible for the process. Additionally, a Records Clerk unilaterally exempted city buildings from enforcement action without supervisory approval, although it is unclear when that occurred. In retrospect, Ballentine could have exercised more direct oversight of the deficiency-reporting process, but it was not unreasonable that he trusted a Fire Captain to manage the daily tasks.

Discipline is not recommended.

5. Joseph Bonnell, Fire Captain

Bonnell denies all responsibility for oversight of the deficiency-reporting process. But Ballentine did, in fact, assign oversight of the program to him. Importantly, Bonnell directly supervised the Records Clerk who processed the reports. And he included deficiency-report processing on her PMG, commenting favorably on her "expertise" in the process. But Bonnell alleges he no longer supervised the Records Clerk by the time the first Library deficiency report was submitted to Fire Prevention. It's unclear who Bonnell believes was responsible.

Discipline is recommended. Appropriate range of discipline: letter of reprimand to suspension.

[redacted]

[redacted]

7. Records Clerk II

The Records Clerk II—completely on her own decision—exempted city buildings from the established deficiency-report process without seeking supervisory approval to do so. Consequently, she discarded the August 2016 deficiency report without follow-up and inspection, and she did not process the May 2017 report. She also failed to maintain the deficiency-reporting process after Ballentine transferred out of the Fire Marshal position (in May 2016). This led to increasing deficiency-report backlog, and the May 2017 report became victim to the backlog, resulting in no code-enforcement action taken.

Discipline is recommended. Appropriate range of discipline: demotion to termination.

Recommendations

The Fire Department should clarify Fire Prevention's duties under the Fire Code—particularly those that relate to addressing and resolving deficiencies disclosed in reports filed by fire-protection system contractors. The Department should also train and hold accountable each person involved in the deficiency-reporting process.

The Fire Department should restructure Fire Prevention to ensure that employees responsible for the deficiency-report process answer, directly or indirectly, to the Fire Marshal.

When reassigning personnel generally, the Fire Department should ensure that persons with new fire-prevention assignments (including assignments that involve deficiency reporting) are adequately oriented to their Code responsibilities and thoroughly trained to faithfully discharge them. This will require supervisors and managers who themselves are properly oriented and trained.

The Fire Marshal and Fire Prevention should treat public buildings no differently than private buildings for purposes of addressing and resolving fire-protection system deficiencies disclosed in reports filed by fire-prevention contractors.

EXHIBIT 1

City of Phoenix

FIRE MARSHAL

JOB CODE 61600

Effective Date: 07/13

DISTINGUISHING FEATURES OF THE CLASS:

The fundamental reason this classification exists is to manage Phoenix Fire Code within the City of Phoenix. The position requires a high degree of coordination with Fire Department operations and with other City departments. The incumbent may have other duties and management responsibilities as assigned. The Fire Marshal reports directly to the Assistant Chief of Special Operations. Work in this classification requires a considerable amount of managerial skill, technical knowledge, teamwork, and effective decision-making.

ESSENTIAL FUNCTIONS:

- Supervises the Fire Investigations Unit;
- Oversees Fire Prevention Specialists and code enforcement and inspection activities;
- Coordinates and manages the Phoenix Fire Code;
- Serves as a representative for the Fire Department on City, state, and national code development committees;
- Manages the Fire Marshal's appeal process;
- Represents the Fire Chief in interactions with the community, with other City departments, the City Manager's Office, the Mayor, and members of City Council;
- Writes and oversees the development of City Council Reports (CCR's), and Requests for Council Action (RCA's) related to fire prevention activities;
- Provides management support for the Fire Safety Advisory Board;
- Represents the Fire Department on the Development Advisory Board;
- Maintains regular and reliable attendance;
- Demonstrates superior seamless customer service, integrity, and commitment to innovation, efficiency, and fiscally responsible activity;
- Works more than 40 hours in a workweek without additional compensation to perform assigned job duties, including weekends, evenings, early morning hours, and holidays as required.

Required Knowledge, Skills and Abilities:

Knowledge of:

- Laws and ordinances pertaining to the City's fire code and building code.
- Principles and practices of fire prevention, suppression, and investigation.
- Supervisory principles and practices.
- Fire prevention inspection methods and techniques.
- Fire protection systems.
- Storage, use and handling of hazardous materials.

Ability to:

- Maintain managerial control under stressful conditions.
- Work cooperatively with superiors, subordinates and peers.
- Perform a broad range of supervisory responsibilities over others.
- Gather pertinent facts, make thorough analysis and develop sound resolutions.
- Observe or monitor people's behavior, or objects to determine compliance with prescribed operating or safety standards.
- Communicate verbally with other City employees, customers, and the public in face-to-face one-on-one settings, in group settings, or using a telephone.
- Produce written documents in the English language with clearly-organized thoughts with proper sentence construction, punctuation, and grammar.
- Enter information into a computer or other keyboard device.
- Work safely without presenting a direct threat to self or others.

Additional Requirements:

- This position requires the use of personal or City vehicles on City business. Individuals must be physically capable of operating the vehicles safely, possess a valid driver license and have an acceptable driving record. Use of a personal vehicle for City business will be prohibited if the employee is not authorized to drive a City vehicle or if the employee does not have personal insurance coverage.
- Some positions will require the performance of other essential or marginal functions.

ACCEPTABLE EXPERIENCE AND TRAINING:

Five years of work experience performing fire investigations in a fire prevention or fire investigations bureau; and a bachelor's degree in fire science, fire prevention, fire investigations, public administration or a related field. Other combinations of experience and education which meet the minimum requirements may be substituted.

EXHIBIT 2

City of Phoenix

FIRE DEPARTMENT
FIRE PREVENTION DIVISION

PHOENIX FIRE DEPARTMENT	**Policy 901.6 & 901.7**

SUBJECT: Impairment and Deficiency Reporting Timelines for Permitted Commercial Inspection Services	**EFFECTIVE DATE:** May 27, 2014
REFERENCES: 2012 International Fire Code with Phoenix Amendments IFC Chapters 1 & 9, NFPA 25, 72, 96 & 13	**SUPERSEDES:** Revision None **REVIEW DATE:** July 2015
NOTICE: Regulations are established by the Phoenix Fire Prevention Code, Section 104.1.	**APPROVED:** Jack Ballentine Jack Ballentine, Fire Marshal

Scope: Phoenix Fire Code Chapter 9 requires both deficiency reports and systems out of service or severely compromised to be reported to the Fire Department. Failure to comply may result in the revocation of Business Certificate and Permit to be an accepted Inspecting Authority within the City of Phoenix.

Comments: Phoenix Fire Code Section 901.7 requires impairment to systems to be reported immediately to the Fire Department, both operations and Fire Prevention, and Fire Watch procedures established. Items that require immediate reporting consist of, but are not limited to: Fire Alarm Panels inoperative, Fire Sprinklers, Pumps or Standpipes out of service, Hood protection systems discharged or out of service, Special Extinguishing Systems out of Service etc.

Impairments should be addressed immediately and if repairs cannot be performed within 10 days to put systems back in service a meeting with Fire Preventions shall be scheduled. Repairs may be performed immediately. Repairs requiring permits may be done immediately and permits applied for within 72 hours.

The Phoenix Fire Code Section 901.6.2.1 requires a copy of deficiency reports to be sent to the Phoenix Fire Department Fire Prevention. The requirement in the code gives no timeline. The City of Phoenix Fire Department has decided to allow a 30 day grace period to have the deficiencies corrected prior to having to file a deficiency report with Fire Prevention. Any repairs beyond maintenance as defined in the Fire Code shall require a permit.

The 30 grace period allows Contractors time to correct the deficiency and eliminates unnecessary follow-up, by Fire Prevention, with your customers.

If the deficiency is not corrected prior to the required submittal Fire Prevention will call your customer upon receipt of the report. Ten days will be given for the customer to establish a plan or remediation and an additional 20 days to apply for any required permits. All work should be completed within 60 days of notification of Fire Prevention.

Deficiencies that cannot be addressed in the 60 day window after inspection may be appealed or subject of Citation.

Permitted Fire and Life Safety Inspection services that do not send in their unresolved deficiency reports are subject to forfeiture of their business certificate and permit to do business in the City of Phoenix.

Non-permitted companies performing Life Safety and Fire System inspections are subject to Citation.

City of Phoenix

FIRE DEPARTMENT
FIRE PREVENTION DIVISION

PHOENIX FIRE DEPARTMENT	Policy 901.6-7 Deficiency Reporting

SUBJECT: Deficiency Reporting	**EFFECTIVE DATE:** May 27, 2014
REFERENCES: 2012 International Fire Code with Phoenix Amendments	**SUPERSEDES:** New
	REVIEW DATE: January 2018
NOTICE: Policies are established by the Phoenix Fire Prevention Code, Section 104.1.	**APPROVED:** Jack Ballentine Jack Ballentine, Fire Marshal

Scope:

Phoenix Fire Code Chapter 9 requires both deficiency reports and systems out of service or severely compromised to be reported to the Fire Department. Failure to comply may result in the revocation of Business Certificate and Permit to be an accepted Inspecting Authority within the City of Phoenix.

Comments: Phoenix Fire Code Section 901.7 requires impairment to systems to be reported immediately to the Fire Department, both operations and Fire Prevention, and Fire Watch procedures established. Items that require immediate reporting consist of, but are not limited to: Fire Alarm Panels inoperative, Fire Sprinklers, Pumps or Standpipes out of service, Hood protection systems discharged or out of service, Special Extinguishing Systems out of Service etc.

Impairments should be addressed immediately and if repairs cannot be performed within 10 days to put systems back in service a meeting with Fire Preventions shall be scheduled. Repairs may be performed immediately. Repairs requiring permits may be done immediately and permits applied for within 72 hours.

The Phoenix Fire Code Section 901.6.2.1 requires a copy of deficiency reports to be sent to the Phoenix Fire Department Fire Prevention. The requirement in the code gives no timeline. The City of Phoenix Fire Department has decided to allow a 30 day grace period to have the deficiencies corrected prior to having to file a deficiency report with Fire

Prevention. Any repairs beyond maintenance as defined in the Fire Code shall require a permit.

The 30 grace period allows Contractors time to correct the deficiency and eliminates unnecessary follow-up, by Fire Prevention, with your customers.

If the deficiency is not corrected prior to the required submittal Fire Prevention will call your customer upon receipt of the report. Ten days will be given for the customer to establish a plan or remediation and an additional 20 days to apply for any required permits. All work should be completed within 60 days of notification of Fire Prevention.

Deficiencies that cannot be addressed in the 60 day window after inspection may be appealed or subject of Citation.

Permitted Fire and Life Safety Inspection services that do not send in their unresolved deficiency reports are subject to forfeiture of their business certificate and permit to do business in the City of Phoenix.

Non-permitted companies performing Life Safety and Fire System inspections are subject to Citation.

EXHIBIT 3

Phoenix Fire Department
Fire Prevention Division

Deficiency Reporting Agreement

Fire protection companies doing business in the City of Phoenix are required to submit a report of deficiencies to the Division of Fire Prevention, per the Phoenix Fire Code.

Purpose comply with Phoenix Fire Code to:

1. Ensure businesses are complying with fire and life safety concerns.
2. To protect the public from imminent danger or hazard.
3. Ensure fire protection equipment is working properly in the event of an emergency.
4. Ensure fire protection equipment firefighters and first responders rely on to be in working order.

Document deficiencies of any fire protection equipment for which you are certified and permitted to inspect. Document any fire and life safety issues that may put the public in imminent danger or harm to any person(s) working in unsafe conditions. Follow and apply all related fire code sections, listed below, as described in the 2012 International Fire Code with Phoenix Amendments.

Submit reports to:
Division of Fire Prevention
C/O Deficiency Reports
150 S 12th St
Phoenix, AZ 85034
Or email to: *pfd.deficiencyreports@phoenix.gov*

By signing this document I agree to adhere to all sections of the 2012 International Fire Code with Phoenix Amendments, including those below:

105.8.2 Business Certificate.
901.6 Inspection, Testing and Maintenance.
901.6.1 Standards.
901.6.2 Records.
901.6.2.1 Records information.
901.6.2.2 Inspection forms.
901.6.2.3 Inspection and testing tags.

It is important to report these items as soon as possible so that we may assist you in educating business owners on the importance of fire/life safety issues.

Business Certificate Holder Name & Company (Print) _____

Signature _____

Business Permit Number _____ Expiration _____

Fire Dept. Witness _____ Date _____

Phoenix Fire Department
Fire Prevention Division

DEFICIENCY REPORTS

Fire protection companies doing business in the City of Phoenix are required to submit a report of deficiencies to the Division of Fire Prevention.

Purpose to comply with Phoenix Fire Code:

1. Ensure businesses are complying with fire and life safety concerns.
2. To protect the public from imminent danger or hazard.
3. Fire protection equipment is working properly in the event of an emergency.
4. Firefighters and first responders rely on fire protection to be in working order and can be used if necessary.

Required information:

1. Name of business or building.
2. Address (building and/or suite number).
3. Contact name.
4. Contact phone number or email address.
5. Technician's Name and CSA or NICET number.
6. Description of deficiencies, make a list of each one.

- Locked doors, blocked exits are not deficiencies; call Fire Prevention at 602-262-6771 to file a complaint.
- Recommendations are not deficiencies.
- Do not send in a report unless there are deficiencies that need attention.
- When corrections are made or scheduled for repair remind customer to contact Fire Prevention of completion, an invoice or report from the company is sufficient.
- Business owners have the option of selecting another company to make corrections or to get bids.
- Fire Prevention is encouraging you (fire protection companies) to help educate business owners of the importance of fire protection maintenance.
- Do not strong-arm business owners with threats that you are reporting them to the Fire Department.
- Do not make false reports as this is a violation of the Phoenix Fire Code.

Submit deficiency reports and confirmation of repairs to:

By Mail: Division of Fire Prevention C/O Deficiency Reports 150 S 12th Street Phoenix, AZ 85034	By Fax: 602-271-9243	By Email: pfd.deficiencyreports@phoenix.gov

By signing the Deficiency Reporting Agreement you are indicating you will comply with this requirement of the Phoenix Fire Code.

EXHIBIT 4

Volume 4 -- Fire Prevention

Deficiency Report Process
M.P. #TBD **07/2015 – N**

Purpose

This procedure is intended to identify how deficiency reports received from life safety system inspection, testing and maintenance companies are processed.

Code Reference

Per the 2012 Phoenix Fire Code Section **901.6.2.1 Records information.** Inspection and test reports and records shall include the name of the company performing the inspection or test, the Phoenix Fire Department business certificate number, and the printed name and signature of the company representative performing the inspection and tests and the building owner or representative or system representative. Deficiency reports highlight a specific area that needs to be replaced, or repaired per code NFPA 25 and 72.

When a deficiency report is issued, a copy shall be sent to the Division of Fire Prevention. [Reports may be submitted in person, via postal or email]. If the system is found to be noncompliant, a brief description of the reason and corresponding code requirements shall be listed. Copy shall be signed by the building owner or representative or system representative.

Processing Procedure

First, review each report for the section titled "Comments and Deficiencies"

- Read the COMMENT/DEFICIENCY area before making contact with the customer. Identify if the comments and deficiencies are either a suggestion or a problem that needs to be addressed. Sometimes only COMMENTS are noted and are not actual code deficiencies.
- Make contact with the customer. This could either be the owner, maintenance supervisor, property manager, ect. Explain who you are and the importance for your call. Remember to be professional and courteous. Explain that the Fire Prevention Section of the Phoenix Fire Department has received notice of system deficiencies identified during a recent inspection performed by XXX-Company. Point out that The Phoenix Fire Department is asking that the deficiencies be addressed within 60 days. The customer may contact the contractor for a quote and to schedule a repair.
- Kindly ask the customer to provide The Phoenix Fire Department with documentation of the repair. A work order or invoice is an acceptable report of completion. This documentation

may be submitted via Fax: (602) 271-9243 or Email: pfd.deficiencyreports@phoenix.gov. Contact Fire Prevention Deficiency & High-Rise Line: 602-261-8026.

- If there is no response, you may need to make a 2nd attempt to contact, document each attempt on the deficiency report/database.
- Follow-up with customers that are in the process of correcting their deficiencies, within 15 business days to check on the progress of their repairs. Make a note on the deficiency report/database. Repeat every 15 business days until documentation of the repairs is received.
- If you receive no response from the customer after three attempts, you should make contact with the Contractor. Have the company that performed the inspection determine if the deficiencies have been corrected. If yes, have them send documentation of completion.
- Place report in corresponding folder with date and time of contact note attached.
- An FPSR will be generated for Non-compliant facilities and General Inspection will be conducted by a Phoenix Fire Inspector.

Sample Email to Customers

Example email...

Good morning my name is (FIRST & LAST) with the Fire Prevention Section of the Phoenix Fire Department. We have received notice of system deficiencies identified in the recent inspection conducted at your facility at (ADDRESS) by (CONTRACTOR). The Phoenix Fire Code Chapter 9 Section 901.6.2.1 requires a copy of deficiency reports to be sent to Phoenix Fire Department, Fire Prevention. As a general rule, the Phoenix Fire Department asks for the corrections and repairs to be addressed within 60 days. After the deficiencies are corrected, we will then need an invoice or work order showing the completion. Thank you very much for your time.

DEFIECIENCIES (list them below)

-

Please contact (CONTRACTOR NAME) for further explanation of the deficiencies. (PHONE # of CONTRACTOR)

Thank you,

(FIRST & LAST NAME)
Phoenix Fire Department
Fire Prevention

EXHIBIT 5

RCI Systems, Inc.

1220 W Geneva Drive
Tempe, AZ 85282
Phone (480) 894-8711 Fax (480) 894-8740

Pre- Action Sprinkler System Report

C-16 Residential ROC099056 • L-16 Commercial ROC099074 • L-67 Commercial ROC174507

Service Technician:	Cody St. Pierre	Technician Signature:	Cody St. Pierre

Location Name / Address		Owner Name / Address	
Name:	BURTON BARR CENTRAL LIBRARY	Name:	CITY OF PHOENIX
Address:	1221 N. CENTRAL AVE.	Address:	2631 S. 22ND AVE
City, State, Zip:	PHOENIX AZ 85004	City, State, Zip:	PHOENIX AZ 85009
Location Contact:	JEFF SCHADE	Owner Contact:	NEVENKA MARKAC
Phone:	602-721-0610	Phone:	602-534-2607
Work Order #:	326128	Date:	August 31, 2016

Weekly ☐ Monthly ☐ Quarterly ☐ Semi-Annually ☑ Annually ☐

		Yes	N/A	No
1	General			
a.	Has the owner provided previous inspection and original inspection report on all systems?	☑	☐	☐
b.	Is the building occupied?	☑	☐	☐
c.	Have there been any changes to occupancy or storage since last inspection?	☐	☐	☑
d.	Are all systems in service?	☐	☐	☑
e.	Has the sprinkler system been modified since last inspection?	☐	☐	☑
f.	Is the building completely sprinkled?	☑	☐	☐
g.	Is all the stock or storage properly below sprinkler piping (18")?	☑	☐	☐
h.	Date of sprinkler system installation:	93		

		Yes	N/A	No
2	Control Valves			
a.	Are all sprinkler systems main control valves open?	☑	☐	☐
b.	Are all other valves in proper propostion?	☑	☐	☐
c.	Are all control valves in good condition and sealed or surpervised?	☑	☐	☐
e.	Were all the control valves exercised?	☐	☐	☐
d.	How are valves supervised? Seated ☐ Locked ☐	Tamper Switch ☑		

		Yes	N/A	No
3	Deluge Valve			
a.	Exterior free of damage, trim valves are in correct open or closed position, and intermediate chamber is not leaking	☑	☐	☐

		Yes	N/A	No
4	Fire Department Connections			
a.	Are fire department connections in satisfactory condition, visible, couplings free and fdc caps in place?	☑	☐	☐
b.	Location of FDC:	☑	☐	☐
c.	Are identification signs provided?	☑	☐	☐

		Yes	N/A	No
5	Fire Alarms & Bells			
a.	Did water motor gong or electric bell function properly?	☑	☐	☐
b.	Was fire alarm connection tested during service?	☑	☐	☐
c.	Did supervisory alarm service test satisfactory?	☑	☐	☐
	Monitoring Co:	Phone: COP		

		Yes	N/A	No
6	Fire Sprinkler System Information			
a.	Are all sprinklers in good condition, not obstructed, free of corrosion or loading?	☑	☐	☐
b.	Are sprinklers less than 50 years old?	☑	☐	☐
c.	Are extra sprinklers and wrench readily available?	☐	☐	☐
d.	List the types of sprinkler heads at this location.			

Type/Year	Upright	1/2"	Brass	200°	Viking		Standard Response			Sin #
Type/Year										Sin #
Type/Year										Sin #

e.	Are visible piping, drain valves, hangers and bracing free of corrosion and in satisfactory condition?	☐	☐	☑
f.	Are all sprinklers of proper temperature rating?	☑	☐	☐
g.	Are gauges in good condition and within calibration? Date: 4X2012	☑	☐	☐
h.	Is hydraulic nameplate in place, firmly attached, and legible?	☑	☐	☐
i.	Are alarm devices provided and in good condition?	☐	☐	☑
j.	Does alarm/check valve indicate fast internal inspection? Date: 1X2012	☑	☐	☐
k.	Is system equiped with a backflow prevention assembly?	☑	☐	☐
l.	Was water flow test made and results satisfactory?	☑	☐	☐

Valve & Flow Test Information										
Fire Spinkler Riser Information							Flow Test Results			
No.	Riser Location	Size	Alarm Valve	Model	Control Valve	I.T.V. Location	Before	During	After	Drain Size
1	WEST MECH ROOM	4"	GEM	A-4	Butterfly	N/A	155	75	155	2"
							Air Off	Air On	Low Alarm	
2	EAST MECH ROOM	4"	GEM	A-4	Butterfly	N/A	Before	During	After	Drain Size
							155	75	155	2"
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	

COMMENTS AND/OR DEFICIENCIES

*****AIR IS OFF TO BOTH SYSTEMS. ANY ALARM THAT WILL TRIP THE SOLENIODS CAN CAUSE POSSIBLE DAMAGE TO LIBRARY*****

****ALL PIPING ASSOCIATED WITH BOTH PREACTIONS IS FULL OF HOLES AND WILL LEAK WATER IF VALVES ARE TRIPPED****

****LOW AIR SWITCHES HAVE BEEN BYPASSED AND DO NOT REPORT AN ABNORMAL CONDITION TO FACP****

****IF PIPING IS FILLED WITH WATER AN UNKNOWN AMOUNT OF WATER MAY BE LEAKED ONTO THE FLOORS BELOW****

EXHIBIT 6

RCI Systems, Inc.

1220 W Geneva Drive
Tempe, AZ 85282
Phone (480) 894-8711 Fax (480) 894-8740

Pre- Action Sprinkler System Report

C-16 Residential ROC099056 • L-16 Commercial ROC099074 • L-67 CommercialROC174507

Service Technician:	George Freeman	Technician Signature:	George Freeman

Location Name / Address		Owner Name / Address	
Name:	BURTON BARR CENTRAL LIBRARY	Name:	CITY OF PHOENIX
Address:	1221 N. CENTRAL AVE.	Address:	2631 S. 22ND AVE
City, State, Zip:	PHOENIX AZ 85004	City, State, Zip:	PHOENIX AZ 85009
Location Contact:	JEFFRY SCHADE	Owner Contact:	
Phone:	(602) 315-8545	Phone:	602-534-2607
Work Order #:	329378	Date:	May 31, 2017

Weekly ☐ Monthly ☐ Quarterly ☐ Semi-Annually ☑ Annually ☐

		Yes	N/A	No
1	General			
a.	Has the owner provided previous inspection and original inspection report on all systems?	☑	☐	☐
b.	Is the building occupied?	☑	☐	☐
c.	Have there been any changes to occupancy or storage since last inspection?	☐	☐	☑
d.	Are all systems in service?	☐	☐	☑
e.	Has the sprinkler system been modified since last inspection?	☐	☐	☑
f.	Is the building completely sprinkled?	☑	☐	☐
g.	Is all the stock or storage properly below sprinkler piping (18")?	☑	☐	☐
h.	Date of sprinkler system installation:	1992		
2	Control Valves	Yes	N/A	No
a.	Are all sprinkler systems main control valves open?	☑	☐	☐
b.	Are all other valves in proper propostion?	☑	☐	☐
c.	Are all control valves in good condition and sealed or surpervised?	☑	☐	☐
e.	Were all the control valves exercised?	☑	☐	☐
d.	How are valves supervised? Seated ☐ Locked ☑	Tamper Switch ☐		
3	Deluge Valve	Yes	N/A	No
a.	Exterior free of damage, trim valves are in correct open or closed position, and intermediate chamber is not leaking	☑	☐	☐
4	Fire Department Connections	Yes	N/A	No
a.	Are fire department connections in satisfactory condition, visible, couplings free and fdc caps in place?	☑	☐	☐
b.	Location of FDC:	☑	☐	☐
c.	Are identification signs provided?	☑	☐	☐
5	Fire Alarms & Bells	Yes	N/A	No
a.	Did water motor gong or electric bell function properly?	☑	☐	☐
b.	Was fire alarm connection tested during service?	☑	☐	☐ *
c.	Did supervisory alarm service test satisfactory?	☑	☐	☐
	Monitoring Co: City of Phoenix Phone: 602-534-8000			
6	Fire Sprinkler System Information	Yes	N/A	No
a.	Are all sprinklers in good condition, not obstructed, free of corrosion or loading?	☑	☐	☐
b.	Are sprinklers less than 50 years old?	☑	☐	☐
c.	Are extra sprinklers and wrench readily available?	☑	☐	☐
d.	List the types of sprinkler heads at this location.			

Type/Year	Upright	1/2"	Brass	200°	Viking		Standard Response			Sin #	
Type/Year										Sin #	
Type/Year										Sin #	

e.	Are visible piping, drain valves, hangers and bracing free of corrosion and in satisfactory condition?	☐	☐	☑
f.	Are all sprinklers of proper temperature rating?	☑	☐	☐
g.	Are gauges in good condition and within calibration? Date: 4x2016	☑	☐	☐
h.	Is hydraulic nameplate in place, firmly attached, and legible?	☑	☐	☐
i.	Are alarm devices provided and in good condition?	☑	☐	☐
j.	Does alarm/check valve indicate last internal inspection? Date: 1x2016	☑	☐	☐
k.	Is system equiped with a backflow prevention assembly?	☑	☐	☐
l.	Was water flow test made and results satisfactory?	☑	☐	☐

Valve & Flow Test Information										
Fire Spinkler Riser Information							Flow Test Results			
No.	Riser Location	Size	Alarm Valve	Model	Control Valve	I.T.V. Location	Before	During	After	Drain Size
1	5TH FL SW MECH RM	4"	GEM	A-4	Butterfly	N/A	160	75	155	2"
							Air Off	Air On	Low Alarm	
2	5TH FL SE MECH RM	4"	GEM	A-4	Butterfly	N/A	Before	During	After	Drain Size
							160	75	155	2"
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	
							Before	During	After	Drain Size
							Air Off	Air On	Low Alarm	

COMMENTS AND/OR DEFICIENCIES

*****AIR IS OFF TO BOTH SYSTEMS. ANY ALARM THAT WILL TRIP THE SOLENIODS CAN CAUSE POSSIBLE DAMAGE TO LIBRARY*****

****ALL PIPING ASSOCIATED WITH BOTH PREACTIONS IS FULL OF HOLES AND WILL LEAK WATER IF VALVES ARE TRIPPED****

****LOW AIR SWITCHES HAVE BEEN BYPASSED AND DO NOT REPORT AN ABNORMAL CONDITION TO FACP****

****IF PIPING IS FILLED WITH WATER AN UNKNOWN AMOUNT OF WATER MAY BE LEAKED ONTO THE FLOORS BELOW****