**Notice of Maladministration and Malfeasance**

To: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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From: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**Irresponsible Deployment of 5G Cell Towers in Arizona**

**Third Notice of Maladministration, Malfeasance, Nonfeasance**

Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, one of the People (as seen in Arizona Constitution Bill of Rights Article 2 Section 2) come to you as previously, being trustees of the People, so you may provide due care and remember your Oath which binds you. I make the following demands and claims:

**Arizona State Constitution Article 2 Section 2: Political Power; Purpose of Government**

“All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.”

All state, county, and municipal governments and instrumentalities thereof must fulfill the requirements of their office, including careful adherence to Constitutional requirements**.** Penalties exist in several Arizona Titles for non-fulfillment of responsibilities. Title 38 Public Officers and Employees, indicates penalties and Title 13 Criminal Code indicates other penalties.

**All agents, participating in decision making, will be held accountable to the People, for all decisions that are deleterious to the People, violate civil rights of the People or have caused damage or harm in any way to the People. This notice is given to allow for all exercise of power against the People to cease and desist immediately.**

As has been clearly indicated in the previous Notices, you have the explicit responsibility to protect those who elected you to office as agents representing the People. It has been unquestionably demonstrated that all cities and towns have within their purview, all that is required to alter, modify or abolish all permitting of WTFs within Tucson.

Please notice that, by not considering special circumstances and the needs of specific residents, and by blanketly permitting WTFs wherever the corporations wish to place them, you are in violation of both Federal and Arizona State ADA requirements.

Please notice, by example ,that the City of Tucson agreed to modifications of ordinances and codes in

United States v. City of Tucson, SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE CITY OF TUCSON, ARIZONA UNDER THE AMERICANS WITH DISABILITIES ACT DJ 204-8-205

 JURISDICTION

1. The ADA applies to the City because it is a "public entity" as defined by title II. 42 U.S.C. § 12131(1).

2. The Department is authorized under 28 C.F.R. Part 35, Subpart F, to determine the compliance of the City with title II of the ADA and the Department's title II implementing regulation, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized, under 42 U.S.C. § 12133, to bring a civil action enforcing title II of the ADA should the Department fail to secure voluntary compliance pursuant to Subpart F.

3. The Department is authorized under 28 C.F.R. Part 42, Subpart G, to determine the City's compliance with section 504 of the Rehabilitation Act of 1973, to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized, under 29 U.S.C. § 794 and 28 C.F.R. §§ 42.530 and 42.108-110, to suspend or terminate financial assistance to the City provided by the Department of Justice should the Department fail to secure voluntary compliance pursuant to Subpart G or to bring a civil suit to enforce the rights of the United States under applicable federal, state, or local law.

4. The parties to this Agreement are the United States of America and the City of Tucson, Arizona.

 IMPLEMENTATION AND ENFORCEMENT

46. If at any time the City desires to modify any portion of this Agreement because of changed conditions making performance impossible or impractical or for any other reason, it will promptly notify the Department in writing, setting forth the facts and circumstances thought to justify modification and the substance of the proposed modification. Until there is written Agreement by the Department to the proposed modification, the proposed modification will not take effect. These actions must receive the prior written approval of the Department, which approval will not be unreasonably withheld or delayed.

47. The Department may review compliance with this Agreement at any time. If the Department believes that the City has failed to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written agreement with the Department for a modification of the relevant terms, the Department will so notify the City in writing and it will attempt to resolve the issue or issues in good faith. If the Department is unable to reach a satisfactory resolution of the issue or issues raised within 30 days of the date it provides notice to the City, it may institute a civil action in federal district court to enforce the terms of this Agreement, or it may initiate appropriate steps to enforce title II and section 504 of the Rehabilitation Act.

The City agreed to abide by and pursue compliance with the Federal ADA and section 504 requirements. It is apparent that the Mayors and City Councils, must be reminded that in that ruling, the DOJ determined that there were many violations to the ADA and section 504 of the Rehabilitation Act of 1973. While those violations were to be rectified in a specified time period, the door was left open for further investigations if required, based on further violations in the future. These same situations exist in all cities and town.

Please notice that the permitting of WTFs without compliance with ADA and section 504 requirements constitutes a violation of residents’ civil rights under ADA Title II and Title III regulations. .

**Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services
Subpart E—Communications**

**§ 35.160 General.**

* (a)(1) A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.

### Part 36 Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities (as amended by the final rules published on August 11, 2016, and December 2, 2016)

### **Authority:** **5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12186(b) and 12205a.**

## Subpart A – General

### § 36.101 Purpose and broad coverage.

**(a) Purpose**.  The purpose of this part is to implement title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181**–12189), as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Public Law 110–325, 122 Stat. 3553 (2008))**, which prohibits discrimination on the basis of disability by **covered**public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

**(b) Broad coverage.  The primary purpose of the ADA Amendments Act is to make it easier for people with disabilities to obtain protection under the ADA.  Consistent with the ADA Amendments Act’s purpose of reinstating a broad scope of protection under the ADA, the definition of “disability” in this part shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA.  The primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of “disability.”  The question of whether an individual meets the definition of “disability” under this part should not demand extensive analysis.**

**Arizona Constitution Article 2 Section 36**

“Thisstate shall not discriminate against or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education or public contracting.”

Please notice that there are environmental violations as well as ADA and 504 violations. The following factual information was presented by Attorney Edward B. Myers, an intervenor in Case 18-1129, was delivered at a November 19, 2019 hearing in Montgomery County, Maryland and again at a November 20, 2019 San Francisco hearing. The testimony was entered into the respective public records at each of these hearings:

“The Federal Communications Commission issued a rulemaking order on March 30, 2018 to expedite the deployment of Densified 4G/5G and other advanced wireless facilities (what the FCC called “small cell” facilities). The FCC’s order exempted all of these 4G/5G facilities from two kinds of previously required review: historic-preservation review under the National Historic Preservation Act (NHPA) and environmental review under the National Environmental Policy Act (NEPA).

**“On August 9, 2019, the US Court of Appeals for the District of Columbia Circuit vacated the FCC’s rulemaking order**. The legal effect of vacating the FCC’s rule necessarily means that the **prior rule was reinstated**: any actions taken on the basis of the vacated rule must be reconsidered under the terms of the prior rule.

“The prior rule required the FCC to apply NEPA to the construction of 4G/5G facilities. Consequently, it is not lawful that any such facility be constructed without prior NEPA review. While other actions of Congress and the FCC have attempted to circumscribe local authority over the construction of Densified 4G/5G facilities, in light of the Court’s decision, the localities are, nevertheless, within their rights to **require the sponsors of** Densified 4G/5G facilities to provide evidence that the FCC has **conducted a NEPA review prior to approving any request for construction.**

Please notice that when you, the Mayors and City Councils, have denied residents rights to life, liberty and property with your permitting and indiscriminate placement of WTFs in multiple neighborhoods and close proximity to schools and other heavy population centers, you are acting in maladministration, malfeasance, malconduct, and nonfeasance. There have been no needs assessments. There have been no NEPA reviews. There have been no NHPA reviews.

**Arizona Constitution Article 2 Section 32**

“The provisions of this Constitution are ***MANDATORY*,** unless by express words they are declared to be otherwise.” [Emphasis added by the undersigned.]

It is now time to act or be found in substantial violation of your oaths of office. I, one of the People, now require and demand that you not only meet with, but adhere to, the requirements of the People. A**ll provisions of the State Constitution are mandatory** and are not to be overlooked or ignored as if they did not exist. This would include discrimination of any kind against the civil rights of the People.

**Maxim of Law-** Remedy signifies the judicial means for enforcing a right or redressing a wrong.

A wrong has occurred repeatedly. Permitting of WTFs violate ADA and 504 requirements for protection of residents. Remedy requires immediate cessation of permitting as indicated in Notice 2.

We, the People, demand immediate recourse. We demand immediate meetings with those involved at all levels of the attack on the People. Criminal negligence has occurred.

**Maxim of Law-** He who does not forbid a crime while he may, sanctions it.

**Maxim of Law-** Crime vitiates everything which springs from it.

**Maxim of Law-** Prevention is better than cure.

Please note that the People have repeatedly demanded relief from and cessation of permitting, placement, activation, and operation of WTFs. The Mayors and the City Councils are now held in contempt of all efforts by the People to communicate.

**Arizona Constitution Article 2 Section 7: Oaths and Affirmations**

The mode of administering an oath, or affirmation, shall be such as shall be most **consistent with and binding upon the conscience of the person to whom such oath, or affirmation, may be administered**.

Any further delay on the part of the Mayor and the City Council will be construed to as maladministration, malfeasance, and nonfeasance. You may choose to rectify your previous decisions, or you may choose to pursue them. Further pursuit will be fundamentally a violation of your Oath of office. You will be held in contempt of your Oath.

The People sincerely wish for you to choose peace and communication over strife and violation of your Oath; however, the People are prepared to act for their rights and protection, Arizona constitution Article 2 Section 2.

**Arizona Constitution Article 2 Section 2.1: Victims’ Bill of Rights**

To preserve and protect victims' rights to justice and due process, a victim of crime has a right:

1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice

At this point, the People, are now victims of criminal activity on the part of the Mayors and City Councils. This maladministration, malfeasance, and nonfeasance must cease immediately!

Will you cease and desist, or will you persist in further criminal activity? Please choose carefully.

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