

1 **BEFORE THE ARIZONA STATE**
2 **BOARD OF TECHNICAL REGISTRATION**

3 **In the Matter of:**)
4 **Charles Andrews**)
5 **Professional Engineer**)
6 **Registration No. 39473**)
7 **Respondent**)

Case No.: P18-046

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

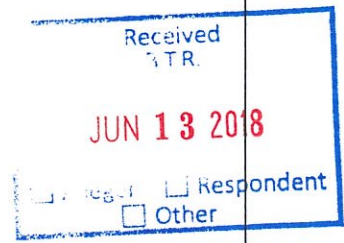
8
9 In the interest of a prompt and judicious resolution of the above-captioned matter
10 before the Arizona State Board of Technical Registration (“Board”) and consistent with
11 the public interest, statutory requirements, and the responsibilities of the Board, and
12 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
13 Charles Andrews (“Respondent”), holder of Registration No. 39473, and the Board enter
14 into the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent
15 Agreement”) as a final disposition of this matter.

16 **RECITALS**

17 1. Respondent has read and understands this Consent Agreement and has had
18 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
19 opportunity to discuss this Consent Agreement with an attorney.

20 2. Respondent understands that he has a right to a public administrative hearing
21 concerning this case. He further acknowledges that at such formal hearing he could
22 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
23 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
24 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action concerning the matters
26 set forth herein.

27 3. Respondent affirmatively agrees that this Consent Agreement shall be
28 irrevocable.



1 4. Respondent understands that this Consent Agreement or any part of the
2 agreement may be considered in any future disciplinary action by the Board against him.

3 5. The Consent Agreement, any record prepared in this matter, all investigative
4 materials prepared or received by the Board and all related exhibits and materials, are
5 public records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
6 Consent Agreement and may be retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P18-046 involving allegations that Respondent engaged in conduct that would
9 subject him to discipline under the Board's statutes and rules. The investigation into
10 these allegations against Respondent shall be concluded upon the Board's adoption of
11 this Consent Agreement.

12 7. Respondent understands that this Consent Agreement does not constitute a
13 dismissal or resolution of any other matters currently pending before the Board, if any,
14 and does not constitute any waiver, express or implied, of the Board's statutory authority
15 or jurisdiction regarding any other pending or future investigation, action or proceeding.

16 8. Respondent also understands that acceptance of this Consent Agreement does
17 not preclude any other agency, subdivision, or officer of this State from instituting any
18 other civil or criminal proceedings with respect to the conduct that is the subject of this
19 Consent Agreement.

20 9. Respondent acknowledges and agrees that, upon signing this Consent
21 Agreement and returning this document to the Board's Executive Director, he may not
22 revoke his acceptance of the Consent Agreement or make any modifications to the
23 document regardless of whether the Consent Agreement has been signed on behalf of the
24 Board. Any modification to this original document is ineffective and void unless
25 mutually agreed by the parties in writing.

26 10. This Consent Agreement is subject to the approval of the Board and is
27 effective only when accepted by the Board and signed on behalf of the Board. If the
28 Board does not accept this Consent Agreement, the Board retains its authority to hold a

1 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
3 evidentiary value and shall not be relied upon nor introduced in any action by any party,
4 except that the parties agree that should the Board reject this Consent Agreement and this
5 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
6 by its review and discussion of this document or any records relating thereto.

7 11. If a court of competent jurisdiction rules that any part of this Consent
8 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
9 shall remain in full force and effect.

10 12. Respondent understands that any violation of this Consent Agreement may
11 result in disciplinary action, including suspension or revocation of the registration under
12 A.R.S. § 32-150.

13 13. Respondent agrees that the Board will adopt the following Findings of Fact,
14 Conclusions of Law and Order.

15 **FINDINGS OF FACT**

16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of Professional Engineering in the State of Arizona.

18 2. Respondent is the holder of Arizona Professional Engineer (Civil)
19 Registration No. 39473.

20 3. On January 2, 2018, the Board received a complaint alleging Respondent
21 prepared and stamped plans for the Alacon Street Improvement Project in Prescott,
22 Arizona, in which he failed to utilize appropriate engineering design criteria by failing to
23 include flow calculations, an analysis of the watershed area or an analysis of peak flow
24 criteria.

25 4. On May 15, 2018, an Enforcement Advisory Committee was convened at the
26 Board office to review the complaint against the Respondent. After interviewing the
27 Allegor, a witness and the Respondent and considering the evidence presented in this
28 case, the Committee substantiated the allegation brought forward by the Allegor and

1 additional violations identified through the assessment process related to the Alacon
2 Street Improvement Project. The Committee found:

- 3 a. Respondent failed to include finished floor elevations of the adjacent
4 residences and commercial buildings,
- 5 b. Respondent failed to include elevation profiles of the street curves, gutter or
6 central alignment medians,
- 7 c. Respondent failed to include a storm drainage report in the construction
8 drawings that provided a basis for the construction of the new drainage channels,
- 9 d. Respondent prepared and stamped plans in which he failed to utilize
10 appropriate engineering design criteria in that he failed to include flow calculations, an
11 analysis of the watershed area or an analysis of peak flow criteria.

12 5. The Committee opined that Respondent relied upon unqualified staff to
13 design the project and that Respondent should have reviewed and recognized the
14 inadequacy of the design before stamping the plans. By not requiring a drainage report,
15 Respondent violated Board Statutes and the City's General Engineering Standards.

16 CONCLUSIONS OF LAW

- 17 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 18 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
19 pursuant to A.R.S. § 32-128 (C)(2), in that Respondent engaged in gross negligence,
20 incompetence or other misconduct while providing professional services to the public.
- 21 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
22 pursuant to A.R.S. § 32-128 (C)C4), as it relates to A.A.C. R4-30-301(6), in that
23 Respondent failed to apply the appropriate technical knowledge and skill in the practice
24 of a Board regulated profession.

25 ORDER

26 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues
27 the following Order:

- 28 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of

1 Reprimand.

2 2. STAYED SUSPENSION AND PROBATION. Respondent's registration as
3 Professional Engineer, No. 39473, shall be suspended for Twenty (20) months; however,
4 the suspension is stayed for as long as Respondent remains in compliance with this
5 Order. During the stay of suspension, Respondent's registration as a Professional
6 Engineer, is placed on probation for Twenty (20) months. If Respondent is non-
7 compliant with any terms of this Order during the Twenty (20) month stayed suspension
8 and probation period, the stay of suspension shall be lifted and Respondent's registration
9 as a Professional Engineer shall be automatically suspended without a formal hearing,
10 and remain suspended until Respondent is compliant with all terms of this Order. If
11 Respondent completes all terms of this Order prior to end of the Twenty (20) month
12 stayed suspension and probation period, Respondent may be eligible for early termination
13 of probation.

14 3. ADMINISTRATIVE PENALTY. Within Twenty (20) months from the
15 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
16 of Four Thousand Dollars (\$4,000.00) by certified check or money order made payable to
17 the State of Arizona Board of Technical Registration. Monthly payments of Two
18 Hundred (\$200.00) Dollars shall be made to the Arizona Board of Technical Registration
19 by the first of each month.

20 4. COST OF INVESTIGATION. Within Six (6) months from the effective date
21 of this Consent Agreement, Respondent shall pay the cost of investigation of this case to
22 the Board in the amount of Eight Hundred Eighty-Eight Dollars (\$888.00) by certified
23 check or money order made payable to the State of Arizona Board of Technical
24 Registration, according to the provisions of A.R.S. § 32-128(H).

25 5. OBEY ALL LAWS. During the probationary period, Respondent shall obey
26 all federal, state and local laws, as well as, all rules governing the practice of Engineering
27 in the State of Arizona. The Board shall consider any violation of this paragraph to be a
28 separate violation of the rules and statues governing the Arizona Board of Technical

1 Registration. The Board may also consider Respondent's non-compliance with this
2 Order as a separate violation of A.R.S. § 32-150.

3 6. EFFECTIVE DATE. The effective date of this Consent Agreement is the
4 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
5 effective date is the later of the two dates.

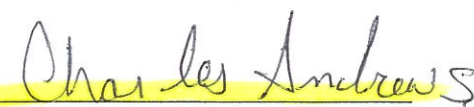
6 7. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
7 complying with this Consent Agreement.

8 8. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
9 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
10 to be heard, may revoke, suspend or take other disciplinary actions against the
11 registration. The issue at such a hearing will be limited solely to whether this Order has
12 been violated.

13
14 ACCEPTED and ORDERED this 28 day of August, 2018.

15
16 
17 _____
18 Alejandro Angel, P.E., Chairman
19 Arizona State Board of
20 Technical Registration

21 Consent Agreement and Order, No. P18-046 accepted this 11th day of
22 June, 2018.

23 
24 _____
25 Charles Andrews, Respondent
26
27
28

1 ORIGINAL filed this 31 day of

2 August, 2018, with:

3
4 Arizona State Board of Technical Registration
5 1110 W. Washington, Suite 240
6 Phoenix, AZ 85007

7 COPY of the foregoing mailed via Certified Mail

8 No. 9214 89d 9434 4600 0000 0422 37 and

9 First Class mail this 31 day of August, 2018, to:

10
11
12
13 Charles Andrews
14 6301 N. 16th Ave
Phoenix, AZ 85015

15 Doug Folk
16 Clark Hill
17 14850 N. Scottsdale Rd. # 500
Scottsdale, AZ 85254

18
19 By:  _____