

City Council Meeting Notice & Agenda



Tuesday, October 06, 2015
City Council Chamber
8401 West Monroe Street
Peoria, AZ 85345

Special Meeting

5:30 P.M. Convene

Roll Call

Consent Agenda

CONSENT AGENDA: All items listed on the Consent Agenda are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Consent

1. **C - Authorization to Hold an Executive Session**

Discussion and possible action to authorize the holding of an Executive Session for the purpose of discussion or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the potential sale of land and Lease Agreement with Arizona Broadway Theatre pursuant to A.R.S. §38-431.03.A.7.

Adjournment

Mayor
Cathy Carlat

Willow
District
Jon Edwards,
Vice Mayor

Acacia
District
Vicki Hunt

Ironwood
District
Bill Patena

Mesquite
District
Bridget Binsbacher

Palo Verde
District
Michael Finn

Pine
District
Carlo Leone

Executive Session

**Convene immediately following Special City Council Meeting
Executive Room, City Council Chamber**

Under the provisions of A.R.S. § 38-431.02 there will be a **CLOSED EXECUTIVE SESSION**.

Executive Session Agenda

2. An Executive Session for the purpose of discussion or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the potential sale of land and Lease Agreement with Arizona Broadway Theatre pursuant to A.R.S. §38-431.03.A.7.

Adjournment

The above-named Public Body of the City of Peoria, Arizona will convene into Executive Session pursuant to A.R.S. § 38-431.03 for those items listed on the agenda. Only those persons who are:

- Members of the Public Body, or
- Officers of the City that are required to attend, or
- Those individuals whose presence is reasonably necessary for the Public Body to carry out its Executive Session responsibilities as determined by the City Attorney may be present during the Executive Session.

All persons who remain present during the Executive Session are reminded that the business conducted in Executive Session, including all discussion taking place herein, is confidential and may not be disclosed to any person, except as permitted by law.

Arizona Open Meeting Act:

Arizona law requires that persons who are present in an executive session receive instruction regarding the confidentiality requirements of the Arizona Open Meetings Act. Minutes and discussions made during executive sessions are confidential and may not be disclosed to any party, except:

- Members of the council,
- Appointees or employees who were subject of discussion under the personnel item subsection of the Open Meetings Act,
- County Attorney or Attorney General pursuant to an investigation of a violation of the Open Meetings Act, and
- Arizona Auditor General in connection with an audit authorized by law.

Any person who violates or who knowingly aids, agrees to aid, or attempts to aid another person in violating the Arizona Open Meetings Law may be punished by fine of up to \$500.00 per violation and/or by removal from public office.

Regular Meeting

7:00 P.M. Convene

Pledge of Allegiance
Roll Call
Final Call To Submit Speaker Request Forms

Presentation

3. Kiwanis Club Check Presentation

Consent Agenda

CONSENT AGENDA: All items listed on the Consent Agenda are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Consent

4. **C - Disposition of Absence**

Discussion and possible action to approve: (a) the absence of Councilmember Bill Patena and Councilmember Carlo Leone from the City Council Seminar held on August 29, 2015; and (b) the absence of Councilmember Michael Finn from the Special City Council Meeting held on September 22, 2015 at 5:00 p.m.

5. **C - Minutes**

Discussion and possible action to approve the following minutes:

- August 26, 2015 Meeting Minutes
- August 29, 2015 Seminar Minutes

6. **C - Code Amendment, Chapter 14, Boarding and Training Kennels**

Discussion and possible action to adopt **ORD. 2015-21** amending Chapter 14 of the Peoria City Code (1977 edition) by amending Article 14-9, Non-Residential Districts to allow Boarding and Training Kennels as a Permitted Conditional Use within the C-2 Intermediate Zoning District (TA15-0003).

7. **C - Grants, Bureau of Justice Assistance, Body-Worn Camera Policy and Implementation Program**

Discussion and possible action to: (a) authorize the acceptance of \$53,170 from the Bureau of Justice Assistance for enhancement of the Body-Worn Camera program; and (b) approve a budget amendment in the amount of \$53,170 from the Proposed Grants Contingency account to the Justice Assistance Grant account to provide expenditure authority.

8. **C - Grants, Governor's Office of Highway Safety, Highway Safety Projects**

Discussion and possible action to: (a) authorize the City Manager to accept \$109,793 from the Governor's Office of Highway Safety for participation in seven highway safety projects; and (b) approve a budget amendment in the amount of \$109,793 from the Proposed Grants Contingency account to various Governor's Office of Highway Safety Grant accounts to provide expenditure authority.

9. **C - Grants, State of Arizona Department of Homeland Security, Various Fire Department Programs**

Discussion and possible action to: (a) authorize the Fire-Medical Department to accept two grant awards in the amount of \$63,280 from the Arizona Department of Homeland Security to be used to strengthen chemical, biological, radiological, nuclear or explosive weapon detection, response and decontamination capabilities; and sustain and enhance the Terrorism Liaison Officer program.; and (b) approve a budget amendment in the amount of \$63,280 from the Proposed Grants Contingency account to various Homeland Security Grant Fund accounts.

10. **C - Grants, State of Arizona Department of Homeland Security, Various Police Department Programs**

Discussion and possible action to: (a) authorize the Police Department to accept two grant awards in the amount of \$107,190 from the Arizona Department of Homeland Security to be used to strengthen chemical, biological, radiological, nuclear or explosive weapon detection, response, and decontamination capabilities; and sustain and enhance the Terrorism Liaison Officer program; and (b) approve a budget amendment in the amount of \$107,190 from the Proposed Grants Contingency account to various Homeland Security Fund accounts.

11. **C - Grant-in-Aid Agreement, Tohono O'odham Nation, Patrol Volunteer Vehicles**

Discussion and possible action to: (a) accept a grant in the amount of \$44,000 from the Tohono O'odham Nation Proposition 202 Grant Program to purchase two vehicles for the Patrol Volunteer Unit; and (b) authorize a budget amendment in the amount of \$49,000 from the Proposed Grants Contingency account to the Tohono O'odham Nation Grant account in the amount of \$44,000 and the Police Department Asset Forfeiture account in the amount of \$5,000 in order to establish appropriation for the funds to be expended.

12. **C - Grant-in-Aid Agreement, Tohono O'odham Nation, Alternative Response Vehicle**
Discussion and possible action to approve a Grant-in-Aid Agreement in the amount of \$79,800 with the Tohono O'odham Nation for the purchase of the Alternative Response Vehicle.
13. **C - Single Source Contract, Ovivo USA LLC, Butler Water Reclamation Facility Repair Parts**
Discussion and possible action to approve a Single Source Contract in an amount not to exceed \$93,000 with Ovivo USA, LLC for Fine Screen Repair Parts at Butler Water Reclamation Facility utilizing funds in the Butler Water Reclamation Facility Treatment Plant Supplies account.
14. **C - Amendment, Arizona Mutual Aid Compact, State of Arizona, Arizona Department of Emergency and Military Affairs**
Discussion and possible action to adopt **RES. 2015-68** authorizing the amended Arizona Mutual Aid Compact providing each incorporated city of the State to appropriate and expend funds, execute contracts, obtain and distribute equipment, materials and supplies for emergency management purposes.
15. **C - Post Employment Health Plan, Peoria Fire Fighters Association**
Discussion and possible action to adopt **RES. 2015-102** authorizing the City Manager to execute trust documents for the transfer of funds from the Nationwide Post Employment Health Plan to the International City Management Association Retirement Corporation, Retiree Health Savings Plan for the members of the Peoria Fire Fighters Association.
16. **C - 2015 Integrated Water Utilities Master Plan**
Discussion and possible action to adopt the 2015 Integrated Water Utilities Master Plan.
17. **C - Maintenance Improvement District No. 1183, Trilogy West, Phase 2 - Parcel C43, Upcountry Way and Dixileta Parkway**
Discussion and possible action to approve the Petition for Formation and adopt **RES. 2015-98** intention and ordering the formation of proposed Maintenance Improvement District No. 1183, Trilogy West, Phase 2 - Parcel C43, located at Upcountry Way and Dixileta Parkway; and adopt **RES. 2015-99** ordering the improvements within the proposed Maintenance Improvement District and declaring an emergency.
18. **C - Deeds and Easements, Various Locations**
Discussion and possible action to adopt **RES. 2015-101** accepting Deeds and Easements for various Real Property interests acquired by the City.

19. **C - Replat, Trilogy at Vistancia Parcel C12 - Amended II, Vistancia Boulevard and Claret Cup Road**

Discussion and possible action to approve the Replat of a portion of Trilogy at Vistancia Parcel C12 - Amended II, located at Vistancia Boulevard and Claret Cup Road, subject to stipulations.

20. **C - PUBLIC HEARING - Liquor License, Various Locations**

PUBLIC HEARING: RE: (a) A New Restaurant Liquor License (Series 12) for Tailgaters Sports Grill & IL Primo Pizza & Wings, located at 10146 West Lake Pleasant Parkway Suite #1030, Michael J. Stallone., Applicant, LL#20013295; (b) A New Restaurant Liquor License (Series 12) for Gus's New York Pizza Lounge, located at 10738 North 75th Avenue #B7, Lauren K. Merret, Applicant, LL#20009630; and (c) A Person Transfer for an On-Sale All Liquor License (Series 06) for Q Bar and Grill, located at 6750 West Olive Avenue, Charles A. Rohlfing, Applicant, LL#3700.

COUNCIL ACTION: Discussion and possible action to recommend approval to the State Liquor Board for: (a) A New Restaurant Liquor License (Series 12) for Tailgaters Sports Grill & IL Primo Pizza & Wings, located at 10146 West Lake Pleasant Parkway Suite #1030, Michael J. Stallone., Applicant, LL#20013295; (b) A New Restaurant Liquor License (Series 12) for Gus's New York Pizza Lounge, located at 10738 North 75th Avenue #B7, Lauren K. Merret, Applicant, LL#20009630; and (c) A Person Transfer for an On-Sale All Liquor License (Series 06) for Q Bar and Grill, located at 6750 West Olive Avenue, Charles A. Rohlfing, Applicant, LL#3700.

Regular Agenda

New Business

21. **R - Water Infrastructure Finance Authority Loan**

Discussion and possible action to adopt **RES. 2015-103**, authorizing the City's acceptance of terms associated with a loan from the Water Infrastructure Finance Authority (WIFA) in the amount of \$14,000,000 to fund the acquisition of the New River Utility Company and to make improvements to the system.

Call To The Public (Non-Agenda Items)

If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from City Manager

22. **Council Calendar**

23. **Reports**

- A. Keep it Safe: A Family Affair
- B. Special Mid-Decade Census Update
- C. Update on Professional Services Contract to Dekker Perich Sabatini
- D. Update on Professional Services Contract to Kimley-Horn
- E. Upcoming Men's Health Campaign

Reports from City Council Reports from the Mayor

Adjournment

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

Accommodations for Individuals with Disabilities. Alternative format materials, sign language interpretation and assistive listening devices are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Peoria, Arizona 85345 – Phone: (623) 773-7340 or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request. The City has a TDD line where accommodations may be requested at: (623) 773-7221.

Public Notice

In addition to the City Council members noted above, one or more members of the City of Peoria Boards and Commissions may be present to observe the City Council meeting as noticed on this agenda.

City Council Meetings can be viewed live on Channel 11 (Cox Cable) and are available for viewing on demand at <http://www.peoriaaz.gov/content2.aspx?id=2151>.

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 3

Date Prepared: September 9, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager
FROM: John R. Sefton Jr., Community Services Director
THROUGH: Jeff Tyne, Deputy City Manager
SUBJECT: Kiwanis Club Check Presentation

SUMMARY:

The Community Services Department is pleased to introduce the Arrowhead Kiwanis Club and their presentation to City Council; a \$20,000 check as contribution to the new playground equipment at Peoria's Kiwanis Park.

Last fall, the Kiwanis Club contacted staff to discuss partnering with the city and Exerplay (the playground manufacturer) to make a significant improvement at Kiwanis Park in honor of the Kiwanis International 100th Anniversary. Subsequently, staff made a presentation to the Club's members to provide some history of the improvements to the park since its opening on April 15, 1989 and to discuss the Club's project. Over the years, several improvements have been made to the park including: the addition of a restroom, tennis court and lighting, a tot lot and shade canopies. The consensus among the Club members and staff was to focus on the installation of new playground amenities.

The project was approved in the FY16 Budget - Community Works Program with the city's investment at \$100,000 and the Club's contribution at \$20,000. The Club earned this generous support through donations, a golf tournament, a luau, and receiving a \$4,000 grant from Kiwanis International.

On April 11, 2015, the Club sponsored a neighborhood event with a goal of seeking input from the community regarding playground designs. The event included bounce houses, DJ music, BBQ, and a petting zoo; all very family-friendly and ultimately successful as it gave the local residents direct input to the amenities and project design.

A "Community Build Event" is scheduled for Saturday, October 24, 2015. The Club has attracted teens from the Peoria Boys and Girls Club, teens from its Key club, the Kiwanis college club (CKI) at Grand Canyon University, the Kohl's Teams, Arrowhead Kiwanis and their family members and other Kiwanis Club members to assist with the actual assembly of the playground amenities. This unique "Build" event will be the first of its kind in Peoria.

Kiwanis is a worldwide organization that works with the World Health Organization eradicating diseases that affect children including iodine deficiency and maternal neonatal tetanus.

This year, the Arrowhead Kiwanis Club has painted the teen room at Peoria Boys and Girls Club, rebuilt and stocked the library, helped restore grounds of Shrine in Yarnell, and will be donating dictionaries to all third graders in the Pendergast and Union school districts.

Exhibit(s): none

Contact Name and Number: John R. Sefton Jr., 623-773-7135

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
CITY COUNCIL CHAMBER
August 26, 2015

A **Special Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 5:00 p.m.

Members Present: Mayor Cathy Carlat; Vice Mayor Jon Edwards; Councilmembers Bridget Binsbacher, Michael Finn, Vicki Hunt, Carlo Leone and Bill Patena.

Members Absent: None.

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Rhonda Geriminsky, City Clerk; Bo Larsen, Public Information Director; and Bill Mattingly, Public Works Director.

Audience: No members of the public were present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT AGENDA

Motion was made by Vice Mayor Edwards, seconded by Councilmember Hunt, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

1. **C - Authorization to Hold an Executive Session**

Authorized the holding of an Executive Session for the purpose of discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding: (a) negotiations with the Peoria Police Officers Association regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body pursuant to A.R.S. § 38-431.03.A.5; (b) negotiations for the purchase of real property located in the vicinity of 83rd Avenue and Peoria Avenue pursuant to A.R.S. §38-431.03.A.7; and (c) negotiations the potential sale of land and Lease Agreement with Arizona Broadway Theatre pursuant to A.R.S. §38-431.03.A.7.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 5:01 p.m.

EXECUTIVE SESSION AGENDA

2. An Executive Session was convened immediately following the 5:00 p.m. Special Meeting for the purpose of discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding: (a) negotiations with the Peoria Police Officers Association regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body pursuant to A.R.S. § 38-431.03.A.5; (b) negotiations for the purchase of real property located in the vicinity of 83rd Avenue and Peoria Avenue pursuant to A.R.S. §38-431.03.A.7; and (c) negotiations for the potential sale of land and Lease Agreement with Arizona Broadway Theatre pursuant to A.R.S. §38-431.03.A.7.

Clerk's Note: In accordance with A.R.S. § 38-431.03(B), minutes of executive sessions must be kept confidential except as outlined in statute.

A **Special Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 7:00 p.m.

Following a moment of silent reflection, Councilmember Binsbacher led the Pledge of Allegiance.

Members Present: Mayor Cathy Carlat; Vice Mayor Jon Edwards; Councilmembers Bridget Binsbacher, Michael Finn, Vicki Hunt, Carlo Leone and Bill Patena.

Members Absent: None.

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Jeff Tyne, Deputy City Manager; Steve Burg, Chief Assistant City Attorney; Rhonda Geriminsky, City Clerk; Julie Ayers, Human Resources Director; Andy Granger, Development and Engineering Director; John Imig, Information Technology Director; Chris Jacques, Planning and Community Development Director; Bo Larsen, Public Information Director; Bill Mattingly, Public Works Director; Brent Mattingly, Finance and Budget Director; Benny Peña, Deputy Police Chief; Tom Pendley, Deputy Fire Chief; John Sefton, Community Services Director; Scott Whyte, Economic Development Services Director; Corina Russo, Assistant to the City Manager; and Linda Blas, Deputy City Clerk.

Audience: Approximately 65 members of the public were present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

REGULAR AGENDA

New Business:

3. **R - Appointments, Council Youth Liaison and Council Youth Liaison Alternate**

John Sefton, Community Services Director, provided a history of the Youth Advisory Board Council Liaison program.

Mayor Carlat read aloud the biographies of the newly selected Youth Liaisons to the City Council.

Motion was made by Vice Mayor Edwards, seconded by Councilmember Finn, to approve the recommendation from the Council Boards and Commissions Subcommittee pertaining to the following appointments and adopt the Resolutions as presented:

- Adopted **RES. 2015-80** appointing Kendra Boden as the Council Youth Liaison;
- Adopted **RES. 2015-81** appointing Christopher Camacho as the Council Youth Liaison Alternate.

Upon vote, the motion carried unanimously 7 to 0.

Presiding Municipal Judge George Anagnost administered the Oath of Office to Council Youth Liaison Kendra Boden and Council Youth Liaison Alternate Christopher Camacho.

Mayor Carlat declared a short recess at 7:10 p.m. to allow for the seating of the Council Youth Liaisons. Council reconvened at 7:15 p.m.

Members Present: Mayor Cathy Carlat; Vice Mayor Jon Edwards; Councilmembers Bridget Binsbacher, Michael Finn, Vicki Hunt, Carlo Leone and Bill Patena.

Council Youth Liaisons: Kendra Boden and Christopher Camacho.

Members Absent: None.

Presentation:

4. 2015 Special Olympics World Games

John Sefton, Community Services Director, recognized Paula Considine, Senior Recreation Supervisor, and Amy Remfrey, Recreation Leader, who served as coaches for Peoria's Adaptive Recreation Special Olympics program.

In addition to the two coaches, five athletes from Peoria's Special Olympics program were selected to participate on the Special Olympics USA Softball Arizona Team at the 2015 World Games held in Los Angeles during the last week of July.

Ms. Considine provided an overview of the sporting event. Ms. Considine gave a presentation highlighting the athletes' experience and reported that the Arizona Softball Team won a Gold Medal.

Vanessa Robles, a Peoria athlete, thanked the Council for their support. Ms. Robles was one of only three females to compete in softball at the World Games and was featured on a special that aired on ESPN prior to the opening ceremonies.

5. Mayor Carlat and Councilmember Patena presented Certificates of Appointment to the following Board and Commission members who were appointed by Resolution at the July 7, 2015 City Council meeting:

- Franklin Schiller to the Industrial Development Authority;
- Richard Cobb to the Judicial Selection Advisory Board;
- Michael Kwederis to the Personnel Board;
- Gregory Jones to the Public Defender Contract Review Committee; and
- Sam Owen to the Youth Advisory Board.

Clerk's Note: Franklin Schiller and Richard Cobb were not present to receive their certificates.

CONSENT AGENDA

CONSENT AGENDA: All items listed with a "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Mayor Carlat asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Hunt, seconded by Councilmember Finn, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

6. **C - Disposition of Absence**

Approved the absence of Councilmember Vicki Hunt from the Study Session and Regular City Council Meeting held on July 7, 2015.

7. **C - Minutes**

Approved the following minutes:

- June 2, 2015 Meeting Minutes
- June 4, 2015 Special Meeting Minutes
- June 16, 2015 Meeting Minutes
- July 7, 2015 Meeting Minutes

8. **C - Appointments, Boards and Commissions**

Approved the recommendations from the Council Boards and Commissions Subcommittee pertaining to the following appointments, and adopted the Resolutions as presented:

- Adopted **RES. 2015-86** appointing Scott Grainger as a regular member to the Building Board of Appeals;
- Adopted **RES. 2015-87** appointing Diane Alfonso as a regular member to the Citizens Commission on Salaries for Elected Officials;
- Adopted **RES. 2015-88** appointing Charles Bruen as a regular member to the Library Board;
- Adopted **RES. 2015-89** appointing Diane Alfonso as an alternate member to the Personnel Board; and
- Adopted **RES. 2015-90** appointing Sarah Wenrich as a regular member to the Youth Advisory Board.

9. **C - Grant, Attorney General's Office of Victim Services, Victims' Rights Program**

- (a) Accepted \$10,097 from the Arizona Attorney General's Office of Victim Services for Peoria's participation in the Fiscal Year 2016 Victims' Rights Program; and
- (b) Approved a budget adjustment in the amount of \$10,097 from the Proposed Grants Contingency account to the Victims' Rights Program Grant account.

10. **C - Intergovernmental Agreement, Peoria Unified School District, Sunrise Mountain High School Drywell Construction**

Approved an Intergovernmental Agreement with Peoria Unified School District to construct drywells at Sunrise Mountain High School utilizing funds from the Fiscal Year 2016 Capital Improvement Program Sunrise Mountain High School Basin Modifications account in the amount of \$64,600.

11. **C - Intergovernmental Agreement, Peoria Unified School District, Facility Use and Development Processing**

Authorized the City Manager to execute an Intergovernmental Agreement with Peoria Unified School District for general use of School Facilities and Development Processing.

12. **C - Intergovernmental Agreement Amendment, Regional Public Transportation Authority, Americans with Disabilities Act Paratransit Service**

Amended an Intergovernmental Agreement with the Regional Public Transportation Authority for reimbursement of allowable costs for transporting American with Disabilities Act riders through the Dial-a-Ride program.

13. **C - Intergovernmental Agreement, Tohono O'odham Nation, Northern Avenue Construction Improvements**

Adopted **RES. 2015-91** approving the Intergovernmental Agreement with the Tohono O'odham Nation for construction of improvements along Northern Avenue.

14. **C - Job Order Contract, J. Banicki Construction, Country Meadows Pavement Resurfacing**

(a) Awarded a Job Order Contract in the amount of \$1,553,600 to J. Banicki Construction, Inc. to resurface the pavement in a portion of Country Meadows between 103rd Avenue and 107th Avenue and between Northern Avenue and Olive Avenue; and

(b) Authorized the use of Fiscal Year 2016 Capital Improvement Program funds in the amount of \$1,553,600.

15. **C - Land Use Agreement, Salt River Project**

Authorized the execution of a Land Use License Agreement with the Salt River Project (SRP) relating to the joint use of certain SRP well sites by the City of Peoria.

16. **C - Third Amendment to the Vistancia Community Facilities District Development, Financing Participation, and Intergovernmental Agreement**

Adopted **RES. 2015-92** approving the form and authorizing the execution and delivery of a Third Amendment to the Vistancia Community Facilities District Development, Financing Participation, and Intergovernmental Agreement and declaring an emergency.

17. **C - Amended and Restated Development Agreement, Vistancia Land Holdings**

Authorized the City Manager to approve the Amended and Restated First Amendment to the 2012 Amended and Restated Vistancia Development Agreement with Vistancia Land Holdings, LLC and other parties.

18. **C - Budget Amendment, Pioneer Community Park Projects, 83rd Avenue and Olive Avenue**

(a) Approved a budget amendment in the amount of \$72,600 from the CIP Capital Project Contingency account to the Pioneer Community Park Concrete Replacement Project, CIP Capital Project Other Improvements account and \$70,000 from the CIP Capital Project Contingency account to the Neighborhood Drainage Program Project, CIP Capital Project Other Improvements account; and

(b) Authorized its expenditure for concrete replacement and drainage modifications at Pioneer Community Park, located on 83rd Avenue south of Olive Avenue.

19. **C - Budget Amendment, Fire-Medical Department, Battalion Chief Response Vehicle Replacement**

Approved a budget amendment and use of reserves in the amount of \$60,600 from the Fleet Reserve Fund Contingency account to the Fleet Reserve Fund, Trucks and Vans account for the purchase of one Ford F-350 Crew Cab 4x4 truck to replace the South Peoria Battalion vehicle.

20. **C - Budget Amendment, Sonoran Preservation Program, Quality of Life Initiatives**

Approved a budget amendment in the amount of \$45,000 from the Non-Departmental Budget Salaries and Wages account to the Professional Services account to assist with hiring of consulting services for city-wide initiatives.

21. **C - Investment Report, Quarter Ending June 30, 2015**

Reviewed and accepted the Investment Report as presented.

22. **C - P83 Building Reuse Program, Revitalization of P83 District**

Adopted the City of Peoria P83 Building Reuse Program to assist in the revitalization of the P83 District.

23. **C – Minor General Plan Amendment, Land Use Map, Vistancia Parcels A-5 and D-1 through D-4, Vistancia Boulevard and Lone Mountain Road, El Mirage Road and Lone Mountain Road**

Concurred with the Planning and Zoning Commission's recommendation and adopted **RES. 2015-93** approving an amendment to the General Plan Land Use Map for approximately 108 acres located within the Vistancia Master Planned Community by re-designating Parcel A-5 within Village A from Community Commercial to Medium-Density Residential (5-8 du/ac); and portions of Parcels D1 through D-4 from Mixed-Use/Regional Commercial and Higher-Density Residential (15+ du/ac) to Low-Density Residential (2-5 du/ac).

24. **C - Rezoning, Vistancia Parcels A-5 and D-1 through D-4, Vistancia Boulevard and Lone Mountain Road, and El Mirage Road and Lone Mountain Road**

Concurred with the Planning and Zoning Commission's recommendation and adopted **ORD. 2015-18** rezoning approximately 108 acres of land within Village A and D of the Vistancia Master Planned Community from the existing Planned Community District to the proposed Planned Community District.

25. **C - Rezoning, Paradise RV Resort, 111th Avenue and Union Hills Drive**

Concurred with the Planning and Zoning Commission's recommendation and adopted **ORD. 2015-19** rezoning approximately 75.53 acres located at the northeast corner of 111th Avenue and Union Hills Drive from RMH-3, Travel Trailer Park, to the Paradise RV Resort Planned Area Development (PAD) (Z15-0003).

26. **C - Correction, Church of Joy Annexation/Deannexation**

Adopted **ORD. 2015-13A** and **ORD. 2015-14A** correcting the legal descriptions and maps for Ordinance 2015-13 (ANX14-0001) and Ordinance 2015-14 (ANX14-0002) to allow the annexation and deannexation to proceed to hearing by the Maricopa County Board of Supervisors.

27. **C - Right-of-Way, 75th Avenue and Jomax Road**

Adopted **RES. 2015-94** authorizing the acceptance of right-of-way located along the 75th Avenue alignment north of Jomax Road associated with the Aloravita development.

28. **C - Deeds and Easements, Various Locations**

Adopted **RES. 2015-95** accepting Deeds and Easements for various Real Property interests acquired by the City.

29. **C - Final Plat, Trilogy West Phase 2 – Parcel C43, Upcountry Way West of Vistancia Boulevard**

Approved the Final Plat of Trilogy West Phase 2 – Parcel C43, located at Upcountry Way west of Vistancia Boulevard, subject to stipulations.

30. **C - Replat, Desert Harbor Parcel 18, 91st Avenue and Thunderbird Road**

Approved the Replat of Desert Harbor Parcel 18, located at 91st Avenue and Thunderbird Road, subject to stipulations.

31. **C - Replat, Units 90 and 91 of Building 8 of Olive Avenue Business Park Condominium, Olive Avenue and Loop 101**

Approved the Replat of Units 90 and 91 of Building 8 of Olive Avenue Business Park Condominium, located at Olive Avenue and Loop 101, subject to stipulations.

32. **C - Replat, Trilogy West Phase 1 - Parcel C42 - Tract B, Upcountry Way West of Vistancia Boulevard**

Approved the Replat of Trilogy West Phase 1 - Parcel C42 - Tract B, located at Upcountry Way west of Vistancia Boulevard, subject to stipulations.

33. **C - Replat, Cactus Heights Industrial Park Replat 2, 91st Avenue and Cactus Road**

Approved the Replat of Cactus Heights Industrial Park Replat 2, located at 91st Avenue and Cactus Road, subject to stipulations.

REGULAR AGENDA

New Business:

34. R - PUBLIC HEARING - Liquor Licenses, Various Locations

Staff Report:

Brent Mattingly, Finance Director, reported on staff's recommendations to recommend approval to the State Liquor Board for:

- (a) A New Restaurant Liquor License (Series 12) for Peoria Artisan Brewery, located at 10144 West Lake Pleasant Parkway Suite #1130, Neal R. Farrell, Applicant, LL#20013120;
- (b) A New Domestic Microbrewery Liquor License (Series 03) for Peoria Artisan Brewery, located at 10144 West Lake Pleasant Parkway Suite #1130, Neal R. Farrell, Applicant, LL#20013120;
- (c) A New Restaurant Liquor License (Series 12) for Char Pizzeria Napoletana, located at 25101 West Lake Pleasant Parkway Suite #1320, Frank P. Mangieri, Applicant, LL#20012982;
- (d) A New Restaurant Liquor License (Series 12) for Twisted Italian, located at 9940 West Happy Valley Road Suite #1080, Brian R. Bojanowski, Applicant, LL#20013282;
- (e) A New Wine and Beer (Series 10) Liquor License for Ammi's Food Mart, located at 8271 West Thunderbird Road, Farhad Hyder, Applicant, LL#20012782;
- (f) A New Wine and Beer (Series 10) Liquor License for Peoria Valero #1637, located at 8322 West Olive Avenue, Baker Alloush, Applicant, LL#20013283;
- (g) A New In-state Craft Distiller (Series 18) Liquor License for Lucidi Distilling Co., located at 8307 West Washington Street, Christopher Q. Lucidi, Applicant, LL#20012962; and
- (h) A Sampling Privileges (Series 09S) to be added to the existing Off-Sale All Liquor License (Series 09) for Wal-Mart Supercenter #1533, located at 7975 West Peoria Avenue, Clare H. Abel, Applicant, LL#10009913.

Mr. Mattingly advised that the properties were posted in accordance with Arizona law, all fees were paid, all reviewing Departments recommended approval and no comments were received from the public.

Public Hearing:

Mayor Carlat opened the Public Hearing and asked if any Councilmember or citizen wished to comment on the requests for:

- (a) A New Restaurant Liquor License (Series 12) for Peoria Artisan Brewery, located at 10144 West Lake Pleasant Parkway Suite #1130, Neal R. Farrell, Applicant, LL#20013120;
- (b) A New Domestic Microbrewery Liquor License (Series 03) for Peoria Artisan Brewery, located at 10144 West Lake Pleasant Parkway Suite #1130, Neal R. Farrell, Applicant, LL#20013120;
- (c) A New Restaurant Liquor License (Series 12) for Char Pizzeria Napoletana, located at 25101 West Lake Pleasant Parkway Suite #1320, Frank P. Mangieri, Applicant, LL#20012982;
- (d) A New Restaurant Liquor License (Series 12) for Twisted Italian, located at 9940 West Happy Valley Road Suite #1080, Brian R. Bojanowski, Applicant, LL#20013282;
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- (g) A New In-state Craft Distiller (Series 18) Liquor License for Lucidi Distilling Co., located at 8307 West Washington Street, Christopher Q. Lucidi, Applicant, LL#20012962; and
- (h) A Sampling Privileges (Series 09S) to be added to the existing Off-Sale All Liquor License (Series 09) for Wal-Mart Supercenter #1533, located at 7975 West Peoria Avenue, Clare H. Abel, Applicant, LL#10009913.

Having no requests from those present to address this item, Mayor Carlat declared the Public Hearing closed.

Council Action:

Motion was made by Councilmember Patena, seconded by Vice Mayor Edwards, to recommend approval to the State Liquor Board for:

- (a) A New Restaurant Liquor License (Series 12) for Peoria Artisan Brewery, located at 10144 West Lake Pleasant Parkway Suite #1130, Neal R. Farrell, Applicant, LL#20013120;

- (b) A New Domestic Microbrewery Liquor License (Series 03) for Peoria Artisan Brewery, located at 10144 West Lake Pleasant Parkway Suite #1130, Neal R. Farrell, Applicant, LL#20013120;
- (c) A New Restaurant Liquor License (Series 12) for Char Pizzeria Napoletana, located at 25101 West Lake Pleasant Parkway Suite #1320, Frank P. Mangieri, Applicant, LL#20012982;
- (d) A New Restaurant Liquor License (Series 12) for Twisted Italian, located at 9940 West Happy Valley Road Suite #1080, Brian R. Bojanowski, Applicant, LL#20013282;
- (e) A New Wine and Beer (Series 10) Liquor License for Ammi's Food Mart, located at 8271 West Thunderbird Road, Farhad Hyder, Applicant, LL#20012782;
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- (g) A New In-state Craft Distiller (Series 18) Liquor License for Lucidi Distilling Co., located at 8307 West Washington Street, Christopher Q. Lucidi, Applicant, LL#20012962; and
- (h) A Sampling Privileges (Series 09S) to be added to the existing Off-Sale All Liquor License (Series 09) for Wal-Mart Supercenter #1533, located at 7975 West Peoria Avenue, Clare H. Abel, Applicant, LL#10009913.

Upon vote, the motion carried unanimously 7 to 0.

35. **R - PUBLIC HEARING - Proposed Fiscal Year 2016 Water Rates and Various Administrative Fees**

Staff Report:

Katie Gregory, Deputy Finance and Budget Director, presented an overview of the request to establish water rates for potential customers currently served by the New River Utility Company (NRUC) effective October 1, 2015.

Information included:

- Rate setting process timeline
- NRUC system overview
- Cost comparison of NRUC and Peoria water rates
- Current and projected rates for NRUC residential customers

Ms. Gregory explained that the potential NRUC customers would be phased into the City's existing water rates and fees over a 15-month period in order that their total annual water and tax-related assessment costs remain nearly equivalent to the current combined levels through the end of the calendar year in 2017.

Ms. Gregory provided the following information regarding the recommended rates:

- Rates would only apply to water customers acquired with the New River system
- Citywide water and wastewater rates would not be impacted by Council's action
- New River customers to pay Citywide rates in place after the phase-in period

In response to questions from Council, Ms. Gregory reported there would be enhancements to the system related to the acquisition of the utility.

Bill Mattingly, Public Works Director, provided an estimated timeline to complete the acquisition and to begin making improvements to the New River system.

Public Hearing:

Mayor Carlat opened the Public Hearing and asked if any Councilmember or citizen wished to comment on the proposed Fiscal Year 2016 water rates and various administrative fees as part of the New River Utility Company acquisition.

Having no requests from those present to address this item, Mayor Carlat declared the Public Hearing closed.

Council Action:

Motion was made by Vice Mayor Edwards, seconded by Councilmember Binsbacher, to adopt **RES. 2015-96** establishing the water rates and various administrative fees applicable to potential future customers served by the New River Utility Company, and making the new rates and fees effective October 1, 2015.

Upon vote, the motion carried unanimously 7 to 0.

Clerk's Note: Agenda Items 36R and 37R were presented together.

36. R - PUBLIC HEARING – Minor General Plan Amendment, Three Olive Park, 103rd Avenue and Olive Avenue

Chris Jacques, Planning and Community Development Director, presented on a request for a minor amendment to the General Land Use Map and a rezoning request for a 40-acre site, located at the southeast corner of 103rd Avenue and Olive Avenue, to allow development of a single-family residential community consisting of 158 lots.

Information included:

- Project overview
- Site and area context
- Conceptual development plan
- Existing General Plan Land Use and zoning maps
- Citizen participation
- Stipulations
- Key findings

Shelby Duplessis, representing Bowman Consulting, responded to questions from Council and advised there is currently a homebuilder interested in purchasing all of the 158 lots.

Mayor Carlat opened the Public Hearing and asked if any Councilmember or citizen wished to comment on the proposed Minor General Plan Amendment for Three Olive Park.

Having no requests from those present to address this item, Mayor Carlat declared the Public Hearing closed.

Council Action:

Motion was made by Councilmember Hunt, seconded by Councilmember Finn, to concur with the Planning and Zoning Commission's recommendation and adopt **RES. 2015-97** approving an amendment to the General Plan Land Use Map by re-designating the site encompassing approximately 40 acres of land located at the southeast corner of 103rd Avenue and Olive Avenue from Medium-High Density Residential (8-15 du/ac) to Medium Density Residential (5-8 du/ac).

Upon vote, the motion carried unanimously 7 to 0.

37. **R - PUBLIC HEARING - Rezoning, Three Olive Park, 103rd Avenue and Olive Avenue**

Mayor Carlat opened the Public Hearing and asked if any Councilmember or citizen wished to comment on the proposed rezoning request for Three Olive Park.

Having no requests from those present to address this item, Mayor Carlat declared the Public Hearing closed.

Council Action:

Motion was made by Councilmember Binsbacher, seconded by Councilmember Hunt, to concur with the Planning and Zoning Commission's recommendation and adopt **ORD. 2015-20**, rezoning approximately 40 acres of land located at the southeast corner of 103rd Avenue and Olive Avenue from Multi-Family Residential (RM-1) and Intermediate Commercial (C-2) to Three Olive Park Planned Area Development (PAD) (Case Z14-0011).

Upon vote, the motion carried unanimously 7 to 0.

38. **R - Agreement, Haydon Building Corp, Police Patrol Services Building and Offsite Improvements, Lake Pleasant Parkway and Pinnacle Peak Road**

Ed Striffler, Architectural Services Manager, presented regarding a design build agreement for a new police patrol services building and related offsite improvements.

Mr. Striffler provided information regarding:

- Project history and design build team qualifications
- Multi-phase building and site development
- Project budget
- Project schedule

Motion was made by Vice Mayor Edwards, seconded by Councilmember Binsbacher, to approve a professional services agreement with Haydon Building Corp in the amount of \$1,475,303 for design and preconstruction services for a new police patrol services building and related offsite improvements, located at Lake Pleasant Parkway, south of Pinnacle Peak Road.

Upon vote, the motion carried unanimously 7 to 0.

Call To The Public (Non-Agenda Items)

Mark Kovalcik addressed Council regarding traffic concerns and student safety in a school zone located at 83rd Avenue and Pinnacle Peak Road.

Reports from City Manager:

39. **Council Calendar**

40. **Reports**

- A. Carl Swenson, City Manager, advised Council their agenda packet included information pertaining to a Homeowners Association interactive map available to the public.
- B. John Sefton, Community Services Director, gave a brief presentation on the Fine Arts Grant Program and the Fiscal Year 2016 grant recipients.
- C. Ed Striffler, Architectural Services Manager, reported on the 2015 Public Works Project of the Year Award presented to the City by the Arizona Chapter of the American Public Works Association for improvements at the Peoria Sports Complex.

Reports from City Council:

Council Youth Liaison Boden thanked the City Council for the opportunity to serve as liaison to the Council.

Councilmember Binsbacher shared her experience at the League of Arizona Cities and Towns 2015 Annual Conference held August 18-21, 2015 in Tucson.

Councilmember Patena welcomed the newly-appointed Council Youth Liaisons. Councilmember Patena reported on the various City of Peoria activities he attended.

Councilmember Patena congratulated Councilmember Leone for the 16-year Public Service Award he received at the League conference.

Vice Mayor Edwards reported on the various City of Peoria activities he attended. Vice Mayor Edwards expressed his congratulations to Ms. Boden and Mr. Camacho for the appointments as Council Youth Liaisons.

Councilmember Finn welcomed the newly-appointed Council Youth Liaisons. Councilmember Finn thanked Peoria's public safety officers for their service.

Councilmember Hunt extended her congratulations to the Council Youth Liaisons. Councilmember Hunt provided an update on construction of the Community Garden located in the Acacia District. Councilmember Hunt thanked City staff and the volunteers for their effort in bringing the project to fruition.

Councilmember Leone welcomed the Youth Liaisons to the Council. Councilmember Leone congratulated the Olympians who participated on the Special Olympics USA Softball Arizona Team at the 2015 World Games.

Council Youth Liaison Camacho thanked the City Council for the opportunity to serve as liaison to the Council.

Reports from the Mayor:

Mayor Carlat welcomed the newly-appointed Council Youth Liaisons. Mayor Carlat announced she was selected to serve on the Executive Committee for the League of Arizona Cities and Towns and the Economic Development Committee for the Maricopa Association of Governments.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 8:38 p.m.

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the City Council Meetings of the City Council of Peoria, Arizona held on the 26th day of August, 2015. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 6th day of October, 2015.

(Seal)

Rhonda Geriminsky, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
DEVELOPMENT AND COMMUNITY SERVICES BUILDING
POINT OF VIEW ROOM
9875 NORTH 85TH AVENUE
August 29, 2015

A **City Council Seminar** of the City Council of the City of Peoria, Arizona was convened at the Development and Community Services Building, 9875 North 85th Avenue, Peoria, Arizona in open and public session at 8:34 a.m.

Members Present: Mayor Cathy Carlat; Vice Mayor Jon Edwards; Councilmembers Bridget Binsbacher, Michael Finn and Vicki Hunt.

Council Youth Liaisons: Kendra Boden.

Members Absent: Councilmembers Carlo Leone and Bill Patena.

Municipal Officials Present: Carl Swenson, City Manager; Jeff Tyne, Deputy City Manager; Rhonda Geriminsky, City Clerk; Thomas Adkins, Intergovernmental Affairs Director; Julie Ayers, Human Resources Director; Katie Gregory, Finance and Budget Deputy Director; Bo Larsen, Public Information Director; Brent Mattingly, Finance and Budget Director and Bobby Ruiz, Fire Chief.

Audience: One member of the public was present.

Fire/Medical Services

Bobby Ruiz, Fire Chief, outlined the topics for the seminar which include:

- Staffing model overview
- Fire operations
- Emergency medical services
- Ambulance services

Chief Ruiz provided an organizational overview of his staff and introduced the fire staff in attendance.

Tom Pendley, Deputy Fire Chief, outlined the Valley's computer-aided dispatch consortium.

Chief Ruiz outlined the differences between automatic aid and mutual aid.

Deputy Chief Pendley continued regarding:

- Fire/medical services area coverage
- Number of fire stations in the City of Peoria
- Complexity of staffing

- All-hazard Fire/Medical Department specialties that City of Peoria employees are trained for including:
 - Technical rescue
 - Rope rescue
 - Swift water rescue
 - Confined space rescue
 - Trench rescue
 - Structural collapse
 - Helicopter operations
 - Hazardous material rescue
 - Rail emergencies
 - Natural gas
 - Chlorine
 - Chemical, Biological, Radiological, Nuclear and Explosives (CBRNE)
 - Lake operations
 - Marine firefighting
 - Wildfire response
- Fire and medical services
- North and South Battalion areas, response times and strategic location of stations

Discussion ensued regarding:

- Which fire department takes control of an incident scene
- Progress of the lake rescue program
- Transition from recovery to rescue
- Funding of wild land fire support
- Firefighters sent to fight wild land fires and how they are compensated for their time
- Process of backfilling firefighters when others are sent to regional fires
- Reimbursement for firefighters sent to regional fires
- Number of calls each station receives in a year
- Standards for the number of calls received per station

9:52 a.m. Mayor Carlat declared a short recess.

10:30 a.m. Meeting resumed.

Mayor Carlat introduced Kendra Boden, the City's new Council Youth Liaison.

Bobby Ruiz, Fire Chief, presented regarding the anatomy of a fire.

Discussion ensued regarding the Great White Nightclub fire.

Rick Picard, Deputy Fire Chief, presented regarding:

- The City's Fire Prevention Plan
 - Inspection
 - Code enforcement
 - Investigations
 - Plans review

Chief Ruiz explained:

- OSHA requirements
- Fighting fires
- Ventilation
- Triaging at the scene
- Command van usage during an incident

Discussion ensued regarding:

- The equipment firefighters wear and what their capabilities are while wearing their suit
- Thermal imagers
- Communication in a fire
- Infrared devices
- Ventilating on 2-story homes

The Mayor and Council stepped outside to tour the Command Response Vehicle.

Discussion in the Command Response Vehicle ensued as follows:

- Resources
- When the Command Center arrives on the scene
- Typical time spent in the Command Response Center and standard relief times
- Level of incident in which the Fire Chief comes to the scene

11:07 a.m. Mayor Carlat declared a short recess.

11:12 a.m. Meeting resumed.

Jim Bratcher, Emergency Medical Services Chief, presented regarding:

- Overview of medical services
- Emergency Medical Service equipment
- Paramedic medications
- Toxicology drug box
- Treatments
- Quality assurance

- Additional resources
- Partnerships
- Trending calls for service analysis
- Data on automatic aid received and given
- “First due” calls missed
 - Calls for service

Chief Ruiz presented regarding:

- The history of emergency medical service efficiency models
- Future emergency medical service efficiency models

Discussion ensued regarding low acuity and high acuity calls

Mr. Bratcher continued regarding:

- Changes in emergency medical services
- Future changes with emergency medical services
- Responding to the change
- Alternative response vehicles
- Pilot program with alternative response vehicle
- Community health service delivery model

Discussion ensued regarding:

- Recouping costs for ambulance services
- Cost of the pilot program

Mr. Bratcher continued regarding:

- Peoria Fire/Medical patient connections and service delivery connections
- Growing trend of readmissions to hospitals
- Goals of community paramedicine
- Current model for ambulance services
- Future model of ambulance services
- History of current ambulance contract
- Recent ambulance industry concerns
- Current status of ambulance contract
- Certificate of necessity and the application process
- Public/private partnerships
- Peoria Fire/Medical ideal ambulance service models
- Ambulance service build out options
 - Full start-ups
 - Incremental start-ups
- Next steps

Discussion ensued regarding:

- Whether interveners exist who oppose the City of Peoria receiving a Certificate of Necessity and why
- Service goals
- Safety concerns with sending only two firefighters versus four to certain incidents
- Alternative response vehicle pilot program
- Low acuity calls versus high acuity calls
- Ways to measure how the life of our vehicles can be extended and how costs can be conserved

It was the consensus of the Council to analyze the City's emergency/medical services delivery and ambulance service options for optimal implementation of ambulance services.

ADJOURNMENT:

Being no further business to come before the Council, the Council Seminar was duly adjourned at 12:41 p.m.

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the City Council Seminar of the City Council of Peoria, Arizona held on the 29th day of August, 2015. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 6th day of October, 2015.

(Seal)

Rhonda Geriminsky, City Clerk

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 6C

Date Prepared: September 21, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Chris Jacques, AICP, Planning and Community Development Director

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

SUBJECT: Case TA15-0003, Zoning Ordinance Text Amendment
Article 14-9, "Non-Residential Districts" – Boarding and Training Kennels

Purpose:

This is a request for City Council to adopt an Ordinance amending Article 14-9, "Non-Residential Districts", of the Zoning Ordinance. The amendment is intended allow animal Boarding and Training Kennels as a Permitted Conditional Use within the C-2 Intermediate Commercial Zoning District, subject to special limitations.

Background/Summary:

Article 14-9 Non-Residential Districts

Doggie District Pet Resort has submitted a request seeking to amend the Zoning Ordinance allowances for Boarding and Training Kennels. The proposed amendment to Article 14-9 of the Zoning Ordinance currently allows animal Boarding and Training Kennels as a Permitted Conditional Use within the C-4 *General Commercial*, PI-1 *Planned Industrial*, I-1 *Light Industrial*, and I-2 *Heavy Industrial* Zoning Districts. There are no special limitations on the use within these Zoning Districts.

As the pet industry and grown and matured, sales of pet-related products and services have soared in the United States. Today's pet boarding facilities have gone well beyond traditional kennel operations to provide services catering o customers who expect the same array of upscale comforts that they provide their pets at home, in conveniently accessible locations.

Proposed Changes

Section 14-9-3 Land Use Matrix and 14-9-5 Limitations on Uses

The changes to the Land Use Matrix and Limitations on Uses provision would allow pet Boarding and Training Kennels as a Permitted Conditional Use, subject to special limitations

intended to mitigate any potential negative impacts associated with the use. Many of these limitations closely mirror those prescribed for the similar use of Pet Shops, which are a Permitted Principal Use in the C-2 Intermediate Commercial Zoning District. Staff has worked with the applicant to develop the proposed limitations so that this use will function in a manner that is appropriate and courteous to the types of adjacent neighbors that would typically be found in the commercial shopping centers common to the C-2 district.

In summary, the proposed amendment constitutes an improvement to the Zoning Ordinance by promoting economic by expanding locations available to pet boarding businesses and increasing service options for customers while identifying compatible, unobtrusive development practices. It is also consistent with the General Plan goal of promoting compatibility between differing uses.

Administrative Procedure

Public notice of the proposed amendments to the Zoning Ordinance was provided in the manner prescribed under Article 14-39. The time, date, and place of the hearing have been published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing.

Previous Actions:

The text amendment item was considered by the Planning and Zoning Commission on September 17, 2015. The Commission voted 6-0 in favor of recommending approval of the request to amend Article 14-34 of the Zoning Ordinance. The applicant provided a presentation in support of the request. No members of the public spoke in support of or opposition to the request.

Options:

- A:** Approve as recommended by Staff and the Planning & Zoning Commission; or
- B:** Approve with modifications; or
- C:** Deny; or
- D:** Continue action to a date certain or indefinitely; or
- E:** Remand to the Planning & Zoning Commission for further consideration.

Staff's Recommendation:

The Mayor and City Council concur with the Planning and Zoning Commission's recommendation to adopt the attached Ordinance amending the Article 14-9, "Non-Residential Districts", of the Zoning Ordinance (Chapter 14 of the City Code, 1977 edition).

Fiscal Analysis:

This request is not expected to have budgetary impacts to the City.

Narrative:

No further action would be necessary should the Mayor and City Council take action to adopt the proposed Ordinance(s).

Exhibit(s):

Exhibit 1 – September 17, 2015 Planning and Zoning Commission Staff Report and Exhibits

Exhibit 2 - Draft Ordinance amending Article 14-9 of the Zoning Ordinance (deletions/additions shown as ~~strike~~/double underline)

Contact Name and Number: Melissa Sigmund, Principal Planner, Ext 7603

Exhibit 1
September 17, 2015
Planning and Zoning Commission
Staff Report



ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 15-0003
DATE: September 17, 2015
AGENDA ITEM: 6R

Applicant: Doggie District
Request: Amend Article 14-9 “Non-Residential Districts”, of the Zoning Ordinance to allow Boarding and Training Kennels as a Permitted Conditional Use in the Intermediate Commercial (C-2) Zoning District, subject to special limitations.
Support / Opposition: As of the date of this printing, Staff has not received any written or verbal support or opposition to this request.
Recommendation: **Approve** as requested.

BACKGROUND

1. The City received an application from Doggie District requesting to amend the Zoning Ordinance as it pertains to animal Boarding and Training Kennels. The applicant was interested in amending the Ordinance to allow Boarding and Training Kennels in the C-2, Intermediate Commercial Zoning District as a Permitted Conditional Use.
2. Article 14-3, “Non-Residential Districts” of the Zoning Ordinance currently allows Boarding and Training Kennels as a Permitted Conditional Use in the C-4, *General Commercial*, PI-1 *Planned Light Industrial*, I-1 *Light Industrial*, and I-2 *Heavy Industrial* Zoning Districts. This use is not currently permitted in the C-2 *Intermediate Commercial* Zoning District.
3. The proposed amendment to the Zoning Ordinance would allow Boarding and Training Kennels as a Permitted Conditional Use in the Intermediate Commercial (C-2) Zoning District, subject to special limitations intended to mitigate any potential impacts to adjacent properties.

DISCUSSION AND ANALYSIS

4. In response to the requested amendment, staff reviewed the Land Use Matrix of Article 14-9 of the Zoning Ordinance and assessed the proposed use in relation to the matrix as a whole in terms of the intensity and possible associated impacts.
5. The C-2 Zoning District currently allows a related use, Pet Shops, in the C-2 Zoning District as a Permitted Use. This allowance specifically includes commonly associated accessory uses such as grooming, veterinary care, training, pet day camp services, and boarding of household pets subject to the following conditions:
 - a. *Veterinarian and grooming services shall be restricted to the care and treatment of small animals during regular business hours.*
 - b. *The commercial breeding of animals shall be prohibited. (Ord. No. 06-16)*
 - c. *All activities shall be completely contained within enclosed buildings; the building shall be designed and constructed to achieve a Sound Transmission Control Value of 50 or greater.*
 - d. *All refuse shall be stored within a completely enclosed building.*
 - e. *Outdoor runs or exercise pens shall be prohibited.*
 - f. *Overnight boarding services for household pets may be operated as an accessory use, provided no more than twenty-five percent (25%) of the total square footage of the establishment may be used as sleeping quarters for the boarded pets; and the area shall be constructed, maintained or operated so that the smell of the boarded animals does not create a nuisance off-site. (Ord. No. 06-16).*

The Boarding and Kennel use would expand upon these services and would allow boarding of household pets to include outdoor areas to better provide for the needs of the animals.

6. While the applicant had a particular business location that precipitated the requested amendment, changes in pet-related industries including boarding suggest a need to reconsider the Zoning Ordinance regulations of such uses. Pet related retail sales and services have greatly expanded in the past twenty years, growing from \$17 Billion in 1994 to over \$58 Billion in 2014, according to the American Pet Products Association. In 2012, over 62 percent of American households included at least one pet according to the Humane Society of the United States. As pet ownership has increased and spending on pets has increased, residents also have increased expectations of the services that will be available for their animal companions. Pet boarding has moved beyond the paradigm of farmhouse kennel operations and veterinary clinic settings into a distinct and often upscale market segment.

7. The industrial Zoning Districts where Boarding and Kenneling is currently allowed support developments that are not conducive to retail traffic. Conversely, the C-2 Intermediate Commercial District is the primary zoning of the majority of the City's commercial centers. Inclusion of this use in the C-2 District would provide the opportunity for residents to patronize a pet boarding facility in a convenient area where they could find other day-to-day retail uses and services in close proximity and eliminates the need to make a separate trip into an industrial area designed for limited customer access.
8. A number of Special Limitations have been proposed with this amendment to mitigate the potential for negative impacts on adjacent properties from Boarding and Training Kennel uses in the C-2 district. The key limitations include:
 - Boarding shall be limited to household pets.
 - Hours of operation for outdoor areas will be limited to between 6 AM and 7 PM, (similar to day care facilities in single family residential districts).
 - Commercial breeding of animals shall be prohibited.
 - All indoor facilities shall be completely enclosed and buildings shall be designed and constructed to achieve a Sound Transmission Control Value of 50 or greater.
 - All refuse shall be stored within an airtight container, or within a completely enclosed building.
 - Facilities shall be constructed, maintained, and operated so that the smell of boarded animals does not create a nuisance off-site.
 - A boarding facility management plan will be required with the Conditional Use Permit application indicating the specific operational plans including management of noise and odor on the site.
9. The proposed limitations will allow the pet boarding uses to occur while mitigating the potential impacts to adjacent uses and properties.
10. It is staff's assessment that the proposed change will provide options for pet boarding businesses to provide services that better serve patrons and residents in Peoria, while ensuring that such uses occur in a safe, compatible, and unobtrusive manner.

Administrative Procedure

Noticing and Neighborhood Comment

11. Public notice of this proposed amendment to the Zoning Ordinance was provided in the manner prescribed under Article 14-39. The time, date, and place of the hearing have been published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing. As of the printing of this report, no support or opposition to this case has been received from the public.

Proposition 207

12. It has been determined that a Proposition 207 waiver is not required.

FINDINGS AND RECOMMENDATION

13. Based on the following findings:

- The proposed amendment promotes economic development by expanding locations available to pet boarding businesses and increasing service options for customers, while identifying compatible, unobtrusive development practices;
- The proposed amendment is consistent with the goals, objectives and policies of the Land Use element of the General Plan which promotes compatibility between differing uses and promotes high-quality architectural and site development;
- Upon review of the application, the Planning Manager has determined that a Proposition 207 waiver is not required for this application.

It is recommended that the Planning and Zoning Commission take the following action:

Recommend approval of Case TA15-0001 to the City Council.

ATTACHMENTS

Exhibit A: Proposed changes to Article 14-9
(deletions/additions shown as ~~strike~~/underscore)

Prepared by: Melissa Sigmund, AICP
Principal Planner

EXHIBIT A

Proposed changes to Article 14-9 of the Zoning
Ordinance

**ARTICLE 14-9
NON-RESIDENTIAL
DISTRICTS**

(Ord. No. 02-68, ~~and~~ 2015-08, 2015-XX)

CONTENTS

14-9-1	INTENT	
14-9-2	ZONING DISTRICTS	
	Office Commercial	O-1
	Convenience Commercial	C-1
	Planned Neighborhood Commercial	PC-1
	Planned Community Commercial	PC-2
	Intermediate Commercial	C-2
	Central Commercial	C-3
	General Commercial	C-4
	Regional Commercial	C-5
	Business Park Industrial	BPI
	Planned Light Industrial	PI-1
	Light Industrial	I-1
	Heavy Industrial	I-2
14-9-3	LAND USE MATRIX	
14-9-4	GENERAL REGULATIONS FOR O-1, C-1, PC-1, PC-2, C-2, AND C-3	
14-9-5	LIMITATIONS ON USES	
14-9-6	PROPERTY DEVELOPMENT STANDARDS	

14-9-1 INTENT

The non-residential districts are intended to collectively facilitate the development and operation of all types of employment-generating uses, including, but not limited to, retail and service establishments, neighborhood convenience stores, business parks and professional offices, research and development centers, storage warehouses and other light-industrial uses in a manner consistent with the Peoria General Plan.

14-9-2 ZONING DISTRICTS

A. Office Commercial District (O-1)

The O-1 District is intended to provide an environment conducive to the establishment of professional offices, medical and legal services, and ancillary retail

ARTICLE 14-9

NON-RESIDENTIAL DISTRICTS

uses. Certain other types of uses are permitted under conditions and standards that ensure their compatibility with surrounding uses as well as nearby residential districts. The O-1 Districts provide for land use transition between more intensive commercial developments and the less intensive residential neighborhoods.

14-9-3 LAND USE MATRIX

LAND USE	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
PERSONAL SERVICES												
Animal Shelter	-	-	-	-	-	-	C	-	-	C	C	C
Appliance Repair	-	-	-	-	-	-	P	-	-	P	P	P
Auction Houses and Estate Sales	-	-	-	-	-	-	P	-	-	P	P	P
Blueprint Shop	-	-	-	-	-	-	P	P	P	P	P	P
Boarding & Training Kennels (Ord. No. 03-171) #	-	-	-	-	C-	-	C	-	-	C	C	C
Cabinet and Carpentry Shop	-	-	-	-	-	-	P	-	-	P	P	P
Custom Dressmaking, Furrier, Millinery or Tailor Shop #	-	-	-	-	-	-	P	P	P	P	P	P
Day Labor Hiring Centers (Ord. No. 05-58A)	-	-	-	-	-	-	C	-	-	C	C	C
Dry Cleaning and Laundry Establishment	-	P	P	P	P	P	P	P	P	P	P	P
Employment Agencies, not including Day Labor Hiring Centers	-	-	P	P	P	P	P	P	P	P	P	P
Laundromat, self-service	-	P	P	P	P	P	P	P	-	-	-	-
Locksmith	-	-	P	P	P	P	P	P	P	P	P	P
Messenger Delivery Service	P	P	P	P	P	P	P	P	P	-	-	-
Palm Readers, Phrenologists, Fortune Tellers and Astrologers	-	-	P	P	P	P	P	P	-	-	-	-
Pest Control Service	-	-	-	-	-	-	P	-	-	P	P	P
Pet Grooming Shop # (Ord. No. 05-51)	-	-	P	P	P	P	P	P	-	-	-	-
Photographic Developing and Printing	P	P	P	P	P	P	P	P	P	P	P	P
Photographic Studio	-	-	P	P	P	P	P	P	-	-	-	-
Plasma Center, Massage Establishment, Tattoo & Body Piercing Studio #	-	-	-	-	C	-	C	C	-	C	-	-
Radio and Television Sales and Service	-	-	P	P	P	P	P	P	-	-	-	-
Recording Studio	-	-	-	P	P	P	P	P	P	P	P	P
Remote Mail Service (Ord. No. 05-58A)	P	P	P	P	P	P	P	P	-	-	-	-
Shoe Service & Clothing Alteration (Ord. No. 03-171)	-	-	P	P	P	P	P	P	-	-	-	-
Sightseeing Tour Companies	-	-	P	P	P	P	P	P	P	P	P	P
Tanning Salon, Nail Salon, Barber Shop, Beauty Parlor & similar uses	-	-	P	P	P	P	P	P	P	P	P	P
Ticket and Travel Agency	P	P	P	P	P	P	P	P	P	-	-	-
Watch and Clock Repair Shop	-	-	-	-	P	P	P	P	P	P	P	P
TRANSPORTATION												
Aviation uses such as Aircraft Repair, Aircraft Sales & Air Charter Services (Ord. No. 05-58A)	-	-	-	-	-	-	-	-	-	P*	P*	P*
Bus Terminals (Ord. No. 05-58A)	-	-	-	-	C	C	C	-	-	P*	P*	P*
Marine Fuel Facility (Ord. No. 05-58A)	-	-	-	-	-	-	-	-	-	-	-	P*
Rail and Motor Freight Terminals & Facilities (Ord. No. 05-58A)	-	-	-	-	-	-	P	-	-	P	P	P

School Bus Parking and Maintenance Facilities # (Ord. No. 05-58A)	C	C	C	C	C	C	C	C	C	C	P*	P*	P*
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- = Permitted Use
- C** = Permitted Conditional Use. Conditional Use Permit required. See Article 14-39-10
- A** = Accessory use
- * = Any uses located within 200 feet of a residential district shall be subject to a Conditional Use Permit (Ord. No. 05-58A)
- # = Subject to special limitations (see the following section 14-9-5)
- = Not Permitted

14-9-5 LIMITATIONS ON USES

K. Personal Services (Ord. No. 05-51)

1. Body Piercing Studios, Massage Establishments, Tattoo Studios, Retail Liquor Stores, Plasma Center, Non Chartered Financial Institutions, and Pawnshops shall be subject to all of the following additional requirements: (Ord. No. 00-28)

- a. All vehicular access shall be from arterial streets.
- b. The uses shall not be located on a lot with a property line within one thousand (1,000) feet measured in a straight line in any direction of the lot line of a Body Piercing Studio, Massage Establishment, Non Chartered Financial Institution, Pawnshop, Retail Liquor Store, Plasma Center and Tattoo Studio, Adult Use, Correctional Facility or State Local Alcohol Reception Center.
- c. For purposes of calculating the locational requirements of this subsection, the distance shall include those areas of Maricopa County surrounded by the City of Peoria and some other city on three or more sides. The locational requirements shall also apply to the uses regardless of whether their distance from such other use includes area within Maricopa County or some other incorporated city and regardless of whether the other use is located in Maricopa County of some other incorporated city.

2. Pet Grooming Shop (Ord. No. 05-51)

- a. The building or suite containing the pet grooming shop shall be designed and constructed to achieve a Sound Transmission Control Value of 50 or greater.

3. Boarding and Training Kennels

In the C-2 Zoning District, the following limitations shall apply:

- 1) Boarding shall be limited to household pets.
- 2) The commercial breeding of animals shall be prohibited.
- 3) The hours of operation for outdoor areas shall be limited to between the hours of 6 AM and 7 PM
- 4) All indoor facilities shall be completely enclosed and buildings shall be designed and constructed to achieve a Sound Transmission Control Value of 50 or greater.

- 5) All refuse shall be stored within an airtight container, or within a completely enclosed building.
- 6) Facilities shall be constructed, maintained, and operated so that the smell of boarded animals does not create a nuisance off-site.
- 7) A Boarding Facility Management Plan shall be provided with the Conditional Use Permit Application indicating the specific operational plans for the facility, including management of noise and odor on the site.

ORDINANCE NO. 2015-21

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 14 OF THE PEORIA CITY CODE (1977 EDITION), BY AMENDING ARTICLE 14-9 "NON-RESIDENTIAL DISTRICTS", OF THE PEORIA ZONING ORDINANCE; PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on September 17, 2015 to consider a proposed amendment to the Peoria City Code, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on August 28, 2015; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of September 17, 2015 voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that an amendment be made to the Peoria City Code (1977 edition) and Chapter 14 of the Peoria City Code; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Article 14-9 "Non-Residential Districts" of Chapter 14 of the Peoria City Code (1977 edition):

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. of Chapter 14 of the Peoria City Code (1977 edition) shall be amended to read as indicated on Exhibit A.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.

SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,
Maricopa County, Arizona this _____ day of _____, 2015.

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Published in: Peoria Times
Publication Date: October 16, 2015
Effective Date:

EXHIBIT A

ARTICLE 14-9 NON-RESIDENTIAL DISTRICTS

(Ord. No. 02-68, ~~and~~ 2015-08, 2015-XX)

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	Planned Community Commercial	PC-2
	Intermediate Commercial	C-2
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14-9-1 INTENT

The non-residential districts are intended to collectively facilitate the development and operation of all types of employment-generating uses, including, but not limited to, retail and service establishments, neighborhood convenience stores, business parks and professional offices, research and development centers, storage warehouses and other light-industrial uses in a manner consistent with the Peoria General Plan.

14-9-2 ZONING DISTRICTS

A. *Office Commercial District (O-1)*

The O-1 District is intended to provide an environment conducive to the establishment of professional offices, medical and legal services, and ancillary retail uses. Certain other types of uses are permitted under conditions and standards that ensure their compatibility with surrounding uses as well as nearby residential districts. The O-1 Districts provide for

land use transition between more intensive commercial developments and the less intensive residential neighborhoods.

14-9-3 LAND USE MATRIX

LAND USE	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
PERSONAL SERVICES												
Animal Shelter	-	-	-	-	-	-	C	-	-	C	C	C
Appliance Repair	-	-	-	-	-	-	P	-	-	P	P	P
Auction Houses and Estate Sales	-	-	-	-	-	-	P	-	-	P	P	P
Blueprint Shop	-	-	-	-	-	-	P	P	P	P	P	P
Boarding & Training Kennels (Ord. No. 03-171, Ord. No. 2015-XX) #	-	-	-	-	C	-	C	-	-	C	C	C
Cabinet and Carpentry Shop	-	-	-	-	-	-	P	-	-	P	P	P
Custom Dressmaking, Furrier, Millinery or Tailor Shop #	-	-	-	-	-	-	P	P	P	P	P	P
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Dry Cleaning and Laundry Establishment	-	P	P	P	P	P	P	P	P	P	P	P
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Palm Readers, Phrenologists, Fortune Tellers and Astrologers	-	-	P	P	P	P	P	P	-	-	-	-
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Rail and Motor Freight Terminals & Facilities (Ord. No. 05-58A)	-	-	-	-	-	-	P	-	-	P	P	P
School Bus Parking and Maintenance Facilities # (Ord. No. 05-58A)	C	C	C	C	C	C	C	C	C	P*	P*	P*

= Permitted Use

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**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 7C

Date Prepared: September 22, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Roy W. Minter, Jr., Chief of Police

THROUGH: Jeff Tyne, Deputy City Manager

SUBJECT: Accept \$53,170 from the Bureau of Justice Assistance Body-Worn Camera Policy and Implementation Program Grant

Purpose:

This is a request for the City Council to authorize the acceptance of funding from the Bureau of Justice Assistance Body-Worn Camera (BWC) Policy and Implementation Program (PIP) in the amount of \$53,170 to enhance Peoria Police Department's Body-Worn Camera program.

Background/Summary:

The Peoria Police Department was notified that the Bureau of Justice Assistance awarded to the City of Peoria a BWC PIP grant in the amount of \$53,170 to assist in funding the expansion of the department's BWC program.

The BWC grant was developed to support BWC programs in law enforcement agencies as tool to promote constructive interactions and communication between police and the community. Evidence indicates these programs help strengthen accountability, assist with de-escalating conflicts and build trust.

BWC funding for the City of Peoria totals \$53,170 and will be used to enhance the department's existing BWC program. The program currently employs 54 BWCs within the Patrol Services Bureau. This funding will support the expansion of the program to include additional cameras and docking stations to the current program.

Previous Actions:

This is the first year that the Bureau of Justice Assistance has offered the funding for Body-Worn Cameras for which Peoria Police Department successfully applied. The department has received other United States Department of Justice Assistance Grant funding in the past.

Options:

A: Accept the grant award totaling \$53,170 from the Bureau of Justice Assistance Body-Worn Camera Policy and Implementation Program and approve a budget adjustment of \$53,170 from the Proposed Grants Contingency account to the Justice Assistance Grant account.

B: Do not accept the grant from the Bureau of Justice Assistance Body-Worn Camera Policy and Implementation Program.

Staff's Recommendation:

It is recommended that Council accept \$53,170 to be used by Peoria Police Department to fund the enhancement of the Body Worn Camera program.

Fiscal Analysis:

Request a budget adjustment of \$53,170 from the Proposed Grants Contingency account (7990-7990-570000) to the Justice Assistance Grant account (7507-7757-530019).

The match requirement for this grant was previously requested in a budget supplement and is included in the FY16 approved budget.

Narrative:

Once approved by City Council, the grant contract will be executed as needed.

Exhibit(s):

Exhibit 1: Grant Contract 2015-DE-BX-K020

Contact Name and Number: Jennifer Loper, 623-773-7072



Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

September 21, 2015

Chief Roy W. Minter Jr.
City of Peoria
8401 W. Monroe Street
PO Box 340
Peoria, AZ 85345-6560

Dear Chief Minter:

On behalf of Attorney General Loretta Lynch, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 15 Body-Worn Camera Policy and Implementation Program: BWC Program Enhancement in the amount of \$53,170 for City of Peoria.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Gerardo Velazquez, Program Manager at (202) 353-8645; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,



Karol Virginia Mason
Assistant Attorney General

Enclosures



OFFICE FOR CIVIL RIGHTS

Office of Justice Programs

Department of Justice

810 7th Street, NW
Washington, DC 20531

Tel: (202) 307-0690

TTY: (202) 307-2027

E-mail: askOCR@usdoj.gov

Website: www.ojp.usdoj.gov/ocr

September 21, 2015

Chief Roy W. Minter Jr.
City of Peoria
8401 W. Monroe Street
PO Box 340
Peoria, AZ 85345-6560

Dear Chief Minter:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at <http://ojp.gov/about/ocr/vawafaqs.htm>.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <http://www.lep.gov>.

Ensuring Equal Treatment for Faith-Based Organizations

The DOJ regulation, *Equal Treatment for Faith-Based Organizations*, 28 C.F.R. pt. 38, requires State Administering Agencies (SAAs) to treat faith-based organizations the same as any other applicant or recipient. The regulation prohibits SAAs from making awards or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the DOJ to fund inherently (or explicitly) religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must hold them separately from the program funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see the OCR's website at http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm.

SAAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5672(b); and VAWA, Pub. L. No. 113-4, sec. 3(b)(4), 127 Stat. 54, 61-62 (to be codified at 42 U.S.C. § 13925(b)(13)) contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* (June 2013), available at http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOs) (see below).

Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEO (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

Meeting the EEOP Requirement

If your organization has less than fifty employees or receives an award of less than \$25,000 or is a nonprofit organization, a medical institution, an educational institution, or an Indian tribe, then it is exempt from the EEOP requirement. To claim the exemption, your organization must complete and submit Section A of the Certification Form, which is available online at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and receives an award of \$25,000 or more, but less than \$500,000, and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form), but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the Utilization Report on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and has received an award for \$500,000 or more and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form) and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing a Utilization Report, please consult the OCR's website at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>. In addition, your organization has to complete Section C of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

To comply with the EEOP requirements, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690, by TTY at (202) 307-2027, or by e-mail at EEOSubmission@usdoj.gov.

Meeting the Requirement to Submit Findings of Discrimination

If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

Ensuring the Compliance of Subrecipients

SAAAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAAAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see http://www.ojp.usdoj.gov/funding/other_requirements.htm.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Cooperative Agreement

1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Peoria 8401 W. Monroe Street PO Box 340 Peoria, AZ 85345-6560	4. AWARD NUMBER: 2015-DE-BX-K020	
	5. PROJECT PERIOD: FROM 10/01/2015 TO 09/30/2017 BUDGET PERIOD: FROM 10/01/2015 TO 09/30/2017	
	6. AWARD DATE 09/21/2015	7. ACTION Initial
2a. GRANTEE IRS/VENDOR NO. 866003631	8. SUPPLEMENT NUMBER 00	
2b. GRANTEE DUNS NO. 809812170	9. PREVIOUS AWARD AMOUNT \$ 0	
3. PROJECT TITLE Peoria Police Department Body-Worn Camera Enhancement	10. AMOUNT OF THIS AWARD \$ 53,170	
	11. TOTAL AWARD \$ 53,170	

12. SPECIAL CONDITIONS
THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT
This project is supported under FY15(BJA - Body-worn Cameras) 42 USC 3756(a)(1); 42 USC 3715 note

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)
16.738 - Edward Byrne Memorial Justice Assistance Grant Program

15. METHOD OF PAYMENT
GPRS

AGENCY APPROVAL GRANTEE ACCEPTANCE

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Karol Virginia Mason Assistant Attorney General	18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Roy W. Minter Chief of Police	
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17. SIGNATURE OF APPROVING OFFICIAL [Redacted]	19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	19A. DATE
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AGENCY USE ONLY

20. ACCOUNTING CLASSIFICATION CODES FISCAL YEAR X FUND CODE B BUD. ACT. DE DIV. OFC. 80 REG. 00 SUB. 00 POMS AMOUNT 53170	21. PDEUGT1604
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**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

1. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (the "Part 200 Uniform Requirements") apply to this 2015 award from the Office of Justice Programs (OJP). For this 2015 award, the Part 200 Uniform Requirements, which were first adopted by DOJ on December 26, 2014, supersede, among other things, the provisions of 28 C.F.R. Parts 66 and 70, as well as those of 2 C.F.R. Parts 215, 220, 225, and 230.

If this 2015 award supplements funds previously awarded by OJP under the same award number, the Part 200 Uniform Requirements apply with respect to all award funds (whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this 2015 award.

Potential availability of grace period for procurement standards: Under the Part 200 Uniform Requirements, a time-limited grace period may be available under certain circumstances to allow for transition from policies and procedures that complied with previous standards for procurements under federal awards to policies and procedures that comply with the new standards (that is, to those at 2 C.F.R. 200.317 through 200.326).

For more information on the Part 200 Uniform Requirements, including information regarding the potentially-available grace period described above, see the Office of Justice Programs (OJP) website at <http://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

2. The recipient agrees to comply with the Department of Justice Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide").
3. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302) that is approved by the Office for Civil Rights is a violation of the Standard Assurances executed by the recipient, and may result in suspension of funding until such time as the recipient is in compliance, or termination of the award.
4. The recipient understands and agrees that OJP may withhold award funds, or may impose other related requirements, if the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.
5. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
6. The recipient and any subrecipients must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by - mail: Office of the Inspector General U.S. Department of Justice Investigations Division 950 Pennsylvania Avenue, N.W. Room 4706 Washington, DC 20530 e-mail: oig.hotline@usdoj.gov hotline: (contact information in English and Spanish): (800) 869-4499 or hotline fax: (202) 616-9881 Additional information is available from the DOJ OIG website at www.usdoj.gov/oig



**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

7. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient under this award, or entity that receives a contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient --

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized to make subawards or contracts under this award --

a. it represents that --

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward, contract, or subcontract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

8. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.

9. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.



**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

10. The recipient agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB and OJP). The recipient also agrees to comply with applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal Numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs web site at <http://www.ojp.gov/funding/sam.htm> (Award condition: Registration with the System for Award Management and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).
11. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.
12. The recipient agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").
13. The recipient understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.
14. The recipient agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this OJP award, and those award funds have been, are being, or are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this OJP award, the recipient will promptly notify, in writing, the grant manager for this OJP award, and, if so requested by OJP, seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.
15. The recipient understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.
16. The recipient understands and agrees that - (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.
17. A recipient that is eligible under the Part 200 Uniform Requirements to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC).
18. The recipient must collect, maintain, and provide to OJP, data that measure the performance and effectiveness of activities under this award, in the manner, and within the timeframes, specified in the program solicitation, or as otherwise specified by OJP. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and other applicable laws.



PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

19. The award recipient agrees to participate in a data collection process measuring program outputs and outcomes. The data elements for this process will be outlined by the Office of Justice Programs.
20. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.
21. The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.
22. All procurement (contract) transactions under this award must be conducted in a manner that is consistent with applicable Federal and State law, and with Federal procurement standards specified in regulations governing Federal awards to non-Federal entities. Procurement (contract) transactions should be competitively awarded unless circumstances preclude competition. Noncompetitive (e.g., sole source) procurements by the award recipient in excess of the Simplified Acquisition Threshold (currently \$150,000) set out in the Federal Acquisition Regulation must receive prior approval from the awarding agency, and must otherwise comply with rules governing such procurements found in the current edition of the OJP Financial Guide.
23. Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the Office of Justice Programs (OJP) program office prior to obligation or expenditure of such funds.
24. The recipient agrees to comply with applicable requirements to report first-tier subawards of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the FFATA Subaward Reporting System (FSRS). The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the Office of Justice Programs web site at <http://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here. This condition, and its reporting requirement, does not apply to grant awards made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).
25. Award recipients must verify Point of Contact (POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.
26. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).



PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

27. The recipient acknowledges that the Office of Justice Programs (OJP) reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward; and (2) any rights of copyright to which a recipient or subrecipient purchases ownership with Federal support.

The recipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under an award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the recipient (and of each subrecipient, if applicable) to ensure that this condition is included in any subaward under this award.

The recipient has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the recipient shall promptly bring such refusal to the attention of the OJP program manager for the award and not proceed with the agreement in question without further authorization from the OJP program office.

28. Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.
29. The recipient agrees to submit to BJA for review and approval any curricula, training materials, proposed publications, reports, or any other written materials that will be published, including web-based materials and web site content, through funds from this grant at least thirty (30) working days prior to the targeted dissemination date. Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements: "This project was supported by Grant No. 2015-DE-BX-K020 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the OJP Financial Guide provides guidance on allowable printing and publication activities.
30. All program authority and responsibility inherent in the Federal stewardship role shall remain with the Bureau of Justice Assistance (BJA). BJA will work in conjunction with the recipient to routinely review and refine the work plan so that the program's goals and objectives can be effectively accomplished. BJA will monitor the project on a continual basis by maintaining ongoing contact with the recipient and will provide input to the program's direction, in consultation with the recipient, as needed.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

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PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

31. Recipient understands and agrees that it must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through GMS (<https://grants.ojp.usdoj.gov>), and that it must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other requirements, refer to BJA's website. Failure to submit required reports by established deadlines may result in the freezing of grant funds and High Risk designation.



PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

32. Within 45 calendar days after the end of any conference, meeting, retreat, seminar, symposium, training activity, or similar event funded under this award, and the total cost of which exceeds \$20,000 in award funds, the recipient must provide the program manager with the following information and itemized costs:

- 1) name of event;
- 2) event dates;
- 3) location of event;
- 4) number of federal attendees;
- 5) number of non-federal attendees;
- 6) costs of event space, including rooms for break-out sessions;
- 7) costs of audio visual services;
- 8) other equipment costs (e.g., computer fees, telephone fees);
- 9) costs of printing and distribution;
- 10) costs of meals provided during the event;
- 11) costs of refreshments provided during the event;
- 12) costs of event planner;
- 13) costs of event facilitators; and
- 14) any other costs associated with the event.

The recipient must also itemize and report any of the following attendee (including participants, presenters, speakers) costs that are paid or reimbursed with cooperative agreement funds:

- 1) meals and incidental expenses (M&IE portion of per diem);
- 2) lodging;
- 3) transportation to/from event location (e.g., common carrier, Privately Owned Vehicle (POV)); and,
- 4) local transportation (e.g., rental car, POV) at event location.

Note that if any item is paid for with registration fees, or any other non-award funding, then that portion of the expense does not need to be reported.

Further instructions regarding the submission of this data, and how to determine costs, are available in the OJP Financial Guide Conference Cost Chapter.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Cooperative Agreement

PAGE 9 OF 9

PROJECT NUMBER 2015-DE-BX-K020

AWARD DATE 09/21/2015

SPECIAL CONDITIONS

33. The recipient is authorized to obligate, expend, or draw down funds in an amount not to exceed 10% of this award for the sole purpose of developing a Body-Worn Camera (BWC) policy. The BWC policy must be submitted no later than 180 days of award acceptance, unless an extension for good cause shown has been granted by BJA. The recipient is not authorized to incur any additional obligations, make any additional expenditures, or draw down any additional funds until BJA has approved the recipient's completed BWC policy and has issued a Grant Adjustment Notice (GAN) removing this condition.
34. The recipient may not obligate, expend or draw down funds until the Office of the Chief Financial Officer (OCFO) has approved the budget and budget narrative and a Grant Adjustment Notice (GAN) has been issued to remove this special condition.
35. Recipient may not obligate, expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received and approved the required application attachment(s) and has issued a Grant Adjustment Notice (GAN) releasing this special condition.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File
From: Orbin Terry, NEPA Coordinator
Subject: Categorical Exclusion for City of Peoria

Awards under this program will be used to plan or implement a body worn camera program. None of the following activities will be conducted whether under the Office of Justice Programs federal action or a related third party action:

- (1) New construction.
- (2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species.
- (3) A renovation which will change the basic prior use of a facility or significantly change its size.
- (4) Research and technology whose anticipated and future application could be expected to have an effect on the environment.
- (5) Implementation of a program involving the use of chemicals.

Additionally, the proposed action is neither a phase nor a segment of a project which when reviewed in its entirety would not meet the criteria for a categorical exclusion. Consequently, the subject federal action meets the Office of Justice Programs' criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY**

Cooperative Agreement

PROJECT NUMBER

2015-DE-BX-K020

PAGE 1 OF 1

This project is supported under FY15(BJA - Body-worn Cameras) 42 USC 3756(a)(1); 42 USC 3715 note

1. STAFF CONTACT (Name & telephone number)

Gerardo Velazquez
(202) 353-8645

2. PROJECT DIRECTOR (Name, address & telephone number)

Teresa Corless
Administrative Services Manager
8401 W. Monroe Street
Peoria, AZ 85345
(623) 773-7035

3a. TITLE OF THE PROGRAM

BJA FY 15 Body-Worn Camera Policy and Implementation Program: BWC Program Enhancement

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

Peoria Police Department Body-Worn Camera Enhancement

5. NAME & ADDRESS OF GRANTEE

City of Peoria
8401 W. Monroe Street PO Box 340
Peoria, AZ 85345-6560

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2015 TO: 09/30/2017

8. BUDGET PERIOD

FROM: 10/01/2015 TO: 09/30/2017

9. AMOUNT OF AWARD

\$ 53,170

10. DATE OF AWARD

09/21/2015

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Body Worn Camera Pilot Implementation program (BWC PIP) provides funding to limited units of local government and federally recognized Indian tribes that perform law enforcement functions, as determined by the department of the interior, and any department, agency, or instrumentality of the foregoing that performs criminal justice functions (including combinations of the preceding).

The Body-Worn Camera Pilot Implementation Program (BWC PIP), funded under a statutory set-aside for technology purposes (42 U.S.C. § 3756(a)(1)), will support the implementation of body-worn camera programs in law enforcement agencies across the country. The intent of the program is help agencies develop, implement or enhance, and evaluate a BWC program as one tool in a law enforcement agency's comprehensive problem solving approach to enhance officer interactions with the public and build community trust. Elements of such an approach include: Implementation of a BWC program developed in a planned and phased approach; Collaboration that leverages partnerships with cross-agency criminal justice stakeholders including prosecutors and advocacy organizations;

Implementation of appropriate privacy policies; Implementation of operational procedures and tracking mechanisms; Training of officers, administrators, and associated agencies requiring access to digital multimedia evidence (DME); Adoption of practices and deployment of BWC programs appropriately addressing operational requirements.

CA/NCF

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 8C

Date Prepared: September 2, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

THROUGH: Jeff Tyne, Deputy City Manager

FROM: Roy W. Minter, Jr., Chief of Police

SUBJECT: Authorization to accept seven grants from the Governor's Office of Highway Safety (GOHS) totaling \$109,793

Purpose:

This is a request for City Council to authorize the acceptance of funding from the Governor's Office of Highway Safety for seven grants to include: DUI/Impaired Driving Enforcement (\$40,000); DUI/Impaired Driving Equipment (\$5,000); School Zone Safety Enforcement (\$7,480), Pedestrian and Bicycle Safety Enforcement (\$19,469); Selective Traffic Enforcement (\$20,000); Accident Investigation Equipment (\$6,547); and Motorcycle Safety Enforcement and Equipment (\$11,297).

Background/Summary:

The Peoria Police Department desires to accept funding provided by the Governor's Office of Highway Safety in the amount of \$109,793. This funding has been provided for the seven grants detailed below.

GOHS has provided funding in the amount of \$40,000 for DUI/Impaired Driving Enforcement. This funding includes participation in multi-agency DUI Task Force operations, and conducting intensive patrols during events that have experienced increased DUI incidents (i.e., Memorial Day Weekend, Fourth of July, etc.).

GOHS has provided funding in the amount of \$5,000 for DUI/Impaired Driving Equipment. This funding will be used to purchase ten Portable Breath Testers (PBTs). These devices will be used in DUI investigations throughout the city and in task force operations.

GOHS has provided funding in the amount of \$7,480 for School Bus Safety Enforcement and Education. This funding will be used to conduct enhanced enforcement activities at schools during spring break and during the start of the school year, and providing school safety education for motorists and children.

GOHS has provided funding in the amount of \$19,469 for Pedestrian and Bicycle Safety Enforcement and Education. This funding includes partnering with the Peoria Unified School District to host six bicycle safety rodeos for children and their families.

GOHS has provided funding in the amount of \$20,000 for Selective Traffic Enforcement. This funding will be used to enhance speed enforcement and education throughout the city of Peoria.

GOHS has provided funding in the amount of \$6,547 for Accident Investigation Equipment. This funding has been provided for the purchase of one light tower and one generator to be used in the investigation of serious injury and fatal vehicle collisions within the city of Peoria.

GOHS has provided funding in the amount of \$11,297 for Motorcycle Safety Equipment and Education. This funding will educate both novice and experienced riders about the inherent safety concerns surrounding the operation of motorcycles.

These grants are reimbursable quarterly, and provide funding through September 2016. Media releases emphasizing the importance of these programs and specifying that funding is provided by the Governor's Office of Highway Safety will be developed and distributed.

Previous Actions:

City Council has previously accepted grants from the Governor's Office of Highway Safety. This will be the 12th consecutive year that the Peoria Police Department has received grant funding from the Governor's Office of Highway Safety.

Options:

A: Accept seven grant awards with funding totaling the amount of \$109,793 from the Governor's Office of Highway Safety and approve a budget adjustment in the amount of \$109,793 from the Proposed Grants Contingency Account to the Governor's Office of Highway Safety Grant Accounts.

B: Choose not to accept the seven grants from the Governor's Office of Highway Safety which would reduce the total number of hours and materials used for enforcement and education efforts in the city of Peoria.

Staff's Recommendation:

Authorize the City Manager to accept \$109,793 from the Governor's Office of Highway Safety (GOHS) to be used by the Peoria Police Department for various enforcement and education efforts.

Fiscal Analysis:

Request a budget adjustment of \$109,793 from the Proposed Grants Contingency account (7990-7990-570000) to the Governor’s Office of Highway Safety Grant Accounts (7515-7765-various), thus providing expenditure authority in the amount of \$109,793. The accounts are as follows:

Account #	Description	Amount
7515-7765-510200	Wages-Overtime	\$88,430
7515-7765-522099	Promotional Items	\$3,000
7515-7765-522503	Printing	\$300
7515-7765-530019	Operational Supplies/Equipment	\$18,063
Total		\$109,793

Narrative:

Once approved by City Council, the grant contracts will be executed as needed.

- Exhibit 1:** Grant Contract 2016-AL-024 (DUI/Impaired Driving Enforcement)
- Exhibit 2:** Grant Contract 2016-AL-068 (DUI/Impaired Driving Equipment)
- Exhibit 3:** Grant Contract 2016-SB-001 (School Bus Safety Enforcement and Education)
- Exhibit 4:** Grant Contract 2016-PS-010 (Pedestrian and Bicycle Safety Enforcement and Education)
- Exhibit 5:** Grant Contract 2016-PT-024 (Selective Traffic Enforcement)
- Exhibit 6:** Grant Contract 2016-AI-003 (Accident Investigation Equipment)
- Exhibit 7:** Grant Contract 2016-MC-002 (Motorcycle Safety Enforcement and Education)

Contact Name and Number: Jennifer Loper, 623-773-7072

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

CFDA 20.600

1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-AI-003
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-AI
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: James Willis
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: Accident Investigation Enforcement Related Equipment
4. GUIDELINES: 402-Accident Investigation (AI)	

5. BRIEFLY STATE PURPOSE OF PROJECT:
Federal 402 funds will support Capital Outlay: One (1) Light Tower and One (1) Generator to enhance Accident Investigation Enforcement throughout the City of Peoria.

6. BUDGET COST CATEGORY	Project Period FFY 2016
I. Personnel Services	\$0.00
II. Employee Related Expenses	\$0.00
III. Professional and Outside Services	\$0.00
IV. Travel In-State	\$0.00
V. Travel Out-of-State	\$0.00
VI. Materials and Supplies	\$0.00
VII. Capital Outlay	\$6,547.00
TOTAL ESTIMATED COSTS	\$6,547.00

PROJECT PERIOD FROM: Effective Date (Date of GOHS Director Signature) TO: 09-30-2016

CURRENT GRANT PERIOD FROM: 10-01-2015 TO: 09-30-2016

TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$6,547.00

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear of miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe).

Agency Problem:

The Peoria Police Department proposal is requesting grant funding for the purchase/procurement of Capital Outlay: One (1) Light Tower and One (1) Generator to be used in the investigations of all serious injury and fatal vehicle collisions within the City of Peoria jurisdiction.

Agency Attempts to Solve Problem:

The City of Peoria is continually assessing the way that the Peoria Police Department does business, and what avenues are available to improve both the quality and the efficiency of the Peoria Police Department traffic collision investigations. During the last few years, the Peoria Police Department reassigned one of the Peoria Police Officers (motor officers) to be a full-time traffic investigator. Because of the investigative workload taken off of the other motor officers, the Peoria Police Department has seen an increase in enforcement as is evident by our productivity. By assigning one officer to complete the majority of complex traffic investigations and hit and run follow-ups, this will allow the remaining Peoria Police Department Officers to focus on enforcement rather than being tied up in the office on investigative or administrative duties.

Agency Funding:

Federal 402 funds will support Capital Outlay: One (1) Light Tower and One (1) Generator to enhance Accident Investigation Enforcement throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department will utilize grant funding to purchase and install the Capital Outlay: One (1) Light Tower and One (1) Generator; and these items must be purchased no later than the 3rd quarter of FFY2016 grant cycle. The Peoria Police Department will increase the capability to investigate collisions for causation and criminal prosecution. The Capital Outlay: One (1) Light Tower and One (1) Generator will fill the deficiency currently diminishing the abilities of the Accident Investigation Team. The goal is to increase the ability as a department to document, evaluate information and provide the best-detailed, descriptive and comprehensive case to the local prosecuting authority in reference to serious injury and fatal collisions within the jurisdiction.

GOALS/OBJECTIVES:

Federal 402 funds will support Capital Outlay: One (1) Light Tower and One (1) Generator to enhance Accident Investigation Enforcement throughout the City of Peoria.

Expenditures of funding pertaining to the AI/Accident Investigation Program including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Accident Investigation Program Goals provided by the Arizona Governor's Office of Highway Safety. The Accident Investigation Program Goal is to provide training and resources for Vehicular Crimes Units to aide in the investigation and prosecution of fatal traffic crashes throughout the State of Arizona.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of Accident Investigations in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Capital Outlay - To purchase/procure the following Capital Outlay for Accident Investigations Enforcement Activities:

One (1) Light Tower and One (1) Generator

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

EQUIPMENT:

One (1) Light Tower and One (1) Generator

Agencies receiving funding for Capital Outlay (major equipment) such as DUI Processing Vans, marked and unmarked enforcement sedans and marked enforcement motorcycles shall schedule a press conference that includes the Director of the Governor's Office of Highway Safety. The purpose of this press conference will be to present the equipment to the community.

The Peoria Police Department shall immediately notify GOHS if any equipment purchased under this contract ceases to be used in the manner described in this contract. In such event, the Peoria Police Department further agrees to dispose of this equipment using the Peoria Police Department's, city, town or county ordinance, code or rule regarding disposal of equipment.

In the absence of an ordinance, code or rule regarding the disposal of the property, the Peoria Police Department can refer to that of the state. The Peoria Police Department shall maintain or cause to be maintained for its useful life, any equipment purchased under this contract. The Peoria Police Department shall incorporate any equipment purchased under this Contract into its inventory records. The Peoria Police Department shall insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets this requirement.

Administrative and Maintenance Costs:

The Peoria Police Department shall be responsible for all administrative, maintenance, operational costs and the costs of any damage relating to the One (1) Light Tower and One (1) Generator.

Decals:

The Governor's Office of Highway Safety shall provide the Peoria Police Department with decals depicting the Governor's Office of Highway Safety logo. These decals shall be affixed to the equipment before being placed in service.

Equipment Purchase:

The equipment purchased under this contract shall be ordered, received, training completed, and placed in service prior to the end of the project period.

If the Agency cannot meet this requirement, the Agency must submit a letter of explanation signed by the Project Director on the Agency's letterhead via mail or hand delivered to the Director of the Governor's Office of Highway Safety within sixty (60) days before the end of the project period.

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

Original Purpose of Equipment:

Pursuant to 23 CFR §1200.21, all equipment purchased under this contract is to be used for the original purpose intended under this contract. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes and neither the State nor the Agency (sub-grantees) or contractors shall encumber the title or interest while such need exists.

The Governor's Office of Highway Safety may reserve the right to transfer title to equipment acquired under this the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes.

Furthermore, 49 CFR §18.32.c.1 states that equipment (acquired under this grant) shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

Insurance:

It is agreed that the Peoria Police Department shall adequately insure all capital equipment purchased under this contract for repair or replacement.

SPECIFIC REQUIREMENTS:**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –****Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

EQUIPMENT –**Requirements for Equipment:**

The Peoria Police Department shall include a high quality color photograph of all Equipment purchased under this contract. The Peoria Police Department shall complete the attached **Capital Outlay Equipment** form for all individual equipment purchases of \$5,000.00 or more. The form is to be attached and submitted with the next quarterly report subsequent to the delivery of the equipment.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

James Willis, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required

report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th). **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review

Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract

representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$0.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay	\$6,547.00
	One (1) Light Tower and One (1) Generator	
	TOTAL ESTIMATED COSTS	*\$6,547.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$6,547.00.

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.

B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject to the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

Date Telephone

***Signature of Authorized Official of
Governmental Unit:***

Carl Swenson, Peoria City Manager
City of Peoria

Date Telephone

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

CFDA 20.600

1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-AL-024	
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-AL	
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: James Willis	
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: DUI/Impaired Driving Enforcement Overtime	
4. GUIDELINES: 402-Alcohol (AL)		
5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Personnel Services (Overtime) to enhance DUI/Impaired Driving Enforcement throughout the City of Peoria.		
6. BUDGET COST CATEGORY	Project Period FFY 2016	
I. Personnel Services	\$40,000.00	
II. Employee Related Expenses	\$0.00	
III. Professional and Outside Services	\$0.00	
IV. Travel In-State	\$0.00	
V. Travel Out-of-State	\$0.00	
VI. Materials and Supplies	\$0.00	
VII. Capital Outlay	\$0.00	
TOTAL ESTIMATED COSTS	\$40,000.00	
PROJECT PERIOD	FROM: Effective Date (Date of GOHS Director Signature)	TO: 09-30-2016
CURRENT GRANT PERIOD	FROM: 10-01-2015	TO: 09-30-2016
TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$40,000.00		

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear of miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe).

Agency Problem:

The Peoria Police Department proposal is requesting grant funding for DUI/Impaired Driving enforcement overtime, Capital Outlay, and Materials and Supplies. The DUI/Impaired Driving enforcement overtime will be utilized to participate in DUI saturation patrols and DUI Task Force operations throughout the federal fiscal year. The DUI task force is an effective enforcement strategy involving multiple police agencies working together to remove impaired drivers from Peoria roadways during holiday periods and throughout the year. The Peoria Police Department continues to implement enforcement that stems from impaired driving; and continue its contribution to the DUI Task Force, which promotes roadway safety throughout the City of Peoria.

Agency Attempts to Solve Problem:

The Peoria Police Department works diligently to address the problems that stem from impaired driving. Utilizing predictive policing during special events, such as Spring Training, the City of Peoria has authorized limited overtime for officers. The Peoria Sports Complex is the Spring Training and player development home of the San Diego Padres and Seattle Mariners, which equates to a large influx of citizens and visitors into the nearby Peoria Entertainment District. Whenever the Peoria Police Department identifies a large scale event where alcohol consumption will take place, additional Peoria Police Officers are provided to detect and apprehend impaired drivers. Not only does the Peoria Police Department identify special events in the City of Peoria, but also in the neighboring City of Glendale. Glendale's major entertainment area, Westgate City Center, is just south of Peoria. Sports and entertainment events, as well as traffic from restaurants and bars create more DUI drivers in Peoria.

Although the Peoria Police Department has dedicated two traffic officers to focus on DUI enforcement during the evening hours, regular staffing is challenged to proactively address impaired driving. The Peoria Police Department DUI enforcement efforts are enhanced through our participation in the West Side DUI Task Force. Last year the Peoria Police Department Officers participated in 26 task force events, which yielded very positive results. The Peoria Police Department also hopes to continue "saturation patrols"; which involve bringing in additional enforcement officers to assist in apprehending DUI offenders.

Although Peoria Police Department does not have a structured DUI education program, the Peoria Police Department acknowledges the importance of DUI education, especially for youth. The Peoria Police Department now has School Resource Officers (SRO) in all four (4) high schools, and each of the high schools has a driving program and a law enforcement program. Through the partnership that has been built with the

Peoria Unified School District and the Peoria Police Department there is a continued effort to assist in providing officers to teach traffic safety and DUI education.

Agency Funding:

Federal 402 funds will support Personnel Services (Overtime) to enhance DUI/Impaired Driving Enforcement throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department plans to utilize grant funding for DUI/Impaired Driving enforcement overtime throughout the federal fiscal year by participating in DUI saturation patrols and DUI Task Force operations. The Peoria Police Department will continue to monitor the DUI enforcement program; and will continually report necessary DUI statistical data to ensure accurate comparisons of DUI arrests, citations, and warnings that are issued. The Peoria Police Department will continue to increase the public's awareness associated with the dangers of drinking; while continuing to provide training and updates on DUI/Impaired Driving laws to Peoria Police Department Officers.

GOALS/OBJECTIVES:

Federal 402 funds will support Personnel Services (Overtime) to enhance DUI/Impaired Driving Enforcement throughout the City of Peoria.

Expenditures of funding pertaining to Impaired Driving Enforcement including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Impaired Driving Program Goals provided by the Arizona Governor's Office of Highway Safety. The Impaired Driving Program Goal is to reduce the incidence of alcohol and drug related driving, fatalities and injuries through enforcement, education and public awareness throughout the State of Arizona. Law Enforcement personnel participating in Impaired Driving Enforcement/DUI activities including DUI Task Force details under this program shall be HGN/SFST certified.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of DUI/Impaired Driving in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services - To support Overtime for DUI/Impaired Driving Enforcement Activities

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

SPECIFIC REQUIREMENTS:**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –****Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

James Willis, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th). **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$40,000.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay	\$0.00
	TOTAL ESTIMATED COSTS	*\$40,000.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$40,000.00.

**QUARTERLY ENFORCEMENT REPORT
(Submitted to GOHS)**

Reporting Period

DESCRIPTION	CONTRACT ACTIVITY	AGENCY ACTIVITY
TOTAL DUI ARRESTS		
TOTAL MISDEMEANOR DUI ARRESTS		
TOTAL EXTREME DUI .15 ARRESTS		
TOTAL AGGRAVATED DUI ARRESTS		
TOTAL DUI DRUG ARRESTS		
TOTAL DRE EVALUATIONS		
SOBER DESIGNATED DRIVERS CONTACTED		
UNDERAGE ALCOHOL VIOLATIONS - TITLE 4		
UNDERAGE DUI ARRESTS		
UNDERAGE DUI-DRUG ARRESTS		
TOTAL AGENCY CITATIONS		
SPEED CITATIONS		
RED LIGHT RUNNING CITATIONS		
SEAT BELT CITATIONS		
CHILD SAFETY SEAT CITATIONS		

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*

OMB Circular No. A-102 (Revised): *Grants and Cooperative Agreements with State and Local Governments*

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject to the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):
Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: Teresa Corless

Title: Administrative Services Manager

Telephone Number: (623) 773-7035 Fax Number: (623) 773-7015

E-mail Address: Teresa.Corless@peoriaaz.gov

2. Agency's Fiscal Contact:

Name: Christen Wilcox

Title: Senior Accountant

Telephone Number: (623) 773-7344 Fax Number: (623) 773-7033

E-mail Address: Christen.Wilcox@peoriaaz.gov

Federal Identification Number: 86-6003634

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Peoria Police Department

Warrant/Check to be mailed to:

Peoria Police Department

(Agency)

8351 W Cinnabar Avenue

(Address)

Peoria, AZ 85345

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

*Signature of Authorized Official of
Governmental Unit:*

Carl Swenson, Peoria City Manager
City of Peoria

_____ Date Telephone

_____ Date Telephone

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

		CFDA 20.600
1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-AL-068	
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-AL	
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: James Willis	
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: DUI/Impaired Driving Enforcement Equipment	
4. GUIDELINES: 402-Alcohol (AL)		
5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Capital Outlay: Ten (10) PBTs to enhance DUI/Impaired Driving Enforcement throughout the City of Peoria.		
6. BUDGET COST CATEGORY	Project Period FFY 2016	
I. Personnel Services	\$0.00	
II. Employee Related Expenses	\$0.00	
III. Professional and Outside Services	\$0.00	
IV. Travel In-State	\$0.00	
V. Travel Out-of-State	\$0.00	
VI. Materials and Supplies	\$0.00	
VII. Capital Outlay	\$5,000.00	
TOTAL ESTIMATED COSTS	\$5,000.00	
PROJECT PERIOD	FROM: Effective Date (Date of GOHS Director Signature)	TO: 09-30-2016
CURRENT GRANT PERIOD	FROM: 10-01-2015	TO: 09-30-2016
TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$5,000.00		
A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.		

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear of miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe).

Agency Problem:

The Peoria Police Department proposal is requesting to procure/purchase Capital Outlay: Ten (10) Portable Breath Tester(s) (PBTs). The DUI task force is an effective enforcement strategy involving multiple police agencies working together to remove impaired drivers from Peoria roadways during holiday periods and throughout the year. The Peoria Police Department continues to implement enforcement that stems from impaired driving; and continue its contribution to the DUI Task Force, which promotes roadway safety throughout the City of Peoria.

Agency Attempts to Solve Problem:

The Peoria Police Department works diligently to address the problems that stem from impaired driving. Utilizing predictive policing during special events, such as Spring Training, the City of Peoria has authorized limited overtime for officers. The Peoria Sports Complex is the Spring Training and player development home of the San Diego Padres and Seattle Mariners, which equates to a large influx of citizens and visitors into the nearby Peoria Entertainment District. Whenever the Peoria Police Department identifies a large scale event where alcohol consumption will take place, additional Peoria Police Officers are provided to detect and apprehend impaired drivers. Not only does the Peoria Police Department identify special events in the City of Peoria, but also in the neighboring City of Glendale. Glendale's major entertainment area, Westgate City Center, is just south of Peoria. Sports and entertainment events, as well as traffic from restaurants and bars create more DUI drivers in Peoria.

Although the Peoria Police Department has dedicated two traffic officers to focus on DUI enforcement during the evening hours, regular staffing is challenged to proactively address impaired driving. The Peoria Police Department DUI enforcement efforts are enhanced through our participation in the West Side DUI Task Force. Last year the Peoria Police Department Officers participated in 26 task force events, which yielded very positive results. The Peoria Police Department also hopes to continue "saturation patrols"; which involve bringing in additional enforcement officers to assist in apprehending DUI offenders.

Although Peoria Police Department does not have a structured DUI education program, the Peoria Police Department acknowledges the importance of DUI education, especially for youth. The Peoria Police Department now has School Resource Officers (SRO) in all four (4) high schools, and each of the high schools has a driving program and a law enforcement program. Through the partnership that has been built with the

Peoria Unified School District and the Peoria Police Department there is a continued effort to assist in providing officers to teach traffic safety and DUI education.

Agency Funding:

Federal 402 funds will support Capital Outlay: Ten (10) PBTs to enhance DUI/Impaired Driving Enforcement throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department plans to utilize grant funding to procure/purchase the Capital Outlay: Ten (10) Portable Breath Tester(s) (PBTs) no later than the 3rd quarter of FFY2016. The Peoria Police Department will continue to monitor the DUI enforcement program; and will continually report necessary DUI statistical data to ensure accurate comparisons of DUI arrests, citations, and warnings that are issued. The Peoria Police Department will continue to increase the public's awareness associated with the dangers of drinking; while continuing to provide training and updates on DUI/Impaired Driving laws to Peoria Police Department Officers.

GOALS/OBJECTIVES:

Federal 402 funds will support Capital Outlay: Ten (10) PBTs to enhance DUI/Impaired Driving Enforcement throughout the City of Peoria.

Expenditures of funding pertaining to Impaired Driving Enforcement including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Impaired Driving Program Goals provided by the Arizona Governor's Office of Highway Safety. The Impaired Driving Program Goal is to reduce the incidence of alcohol and drug related driving, fatalities and injuries through enforcement, education and public awareness throughout the State of Arizona. Law Enforcement personnel participating in Impaired Driving Enforcement/DUI activities including DUI Task Force details under this program shall be HGN/SFST certified.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of DUI/Impaired Driving in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Capital Outlay - To purchase/procure the following Capital Outlay for DUI/Impaired Driving Enforcement Activities:

Ten (10) PBTs

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

EQUIPMENT:

Ten (10) PBTs

Agencies receiving funding for Capital Outlay (major equipment) such as DUI Processing Vans, marked and unmarked enforcement sedans and marked enforcement motorcycles shall schedule a press conference that includes the Director of the Governor's Office of Highway Safety. The purpose of this press conference will be to present the equipment to the community.

The Peoria Police Department shall immediately notify GOHS if any equipment purchased under this contract ceases to be used in the manner described in this contract. In such event, the Peoria Police Department further agrees to dispose of this equipment using the Peoria Police Department's, city, town or county ordinance, code or rule regarding disposal of equipment.

In the absence of an ordinance, code or rule regarding the disposal of the property, the Peoria Police Department can refer to that of the state. The Peoria Police Department shall maintain or cause to be maintained for its useful life, any equipment purchased under this contract. The Peoria Police Department shall incorporate any equipment purchased under this Contract into its inventory records. The Peoria Police Department shall insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets this requirement.

Administrative and Maintenance Costs:

The Peoria Police Department shall be responsible for all administrative, maintenance, operational costs and the costs of any damage relating to the Ten (10) PBTs.

Decals:

The Governor's Office of Highway Safety shall provide the Peoria Police Department with decals depicting the Governor's Office of Highway Safety logo. These decals shall be affixed to the equipment before being placed in service.

Equipment Purchase:

The equipment purchased under this contract shall be ordered, received, training completed, and placed in service prior to the end of the project period.

If the Agency cannot meet this requirement, the Agency must submit a letter of explanation signed by the Project Director on the Agency's letterhead via mail or hand delivered to the Director of the Governor's Office of Highway Safety within sixty (60) days before the end of the project period.

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

Original Purpose of Equipment:

Pursuant to 23 CFR §1200.21, all equipment purchased under this contract is to be used for the original purpose intended under this contract. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes and neither the State nor the Agency (sub-grantees) or contractors shall encumber the title or interest while such need exists.

The Governor's Office of Highway Safety may reserve the right to transfer title to equipment acquired under this the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes.

Furthermore, 49 CFR §18.32.c.1 states that equipment (acquired under this grant) shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

Insurance:

It is agreed that the Peoria Police Department shall adequately insure all capital equipment purchased under this contract for repair or replacement.

SPECIFIC REQUIREMENTS:**BREATH TESTING DEVICES –****Requirements for Portable Breath Test Devices (PBTs):**

The Peoria Police Department will be responsible for providing all personnel the appropriate training for using the Portable Breath Test Devices (PBTs) purchased under this contract.

PBTs will be calibrated per the specifications outlined by the respective manufacturer. Written documentation will be maintained by the agency and will be available upon request for review by GOHS.

PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –**Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

James Willis, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th). **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, <i>photographs</i> ,

	inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$0.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay Ten (10) PBTs	\$5,000.00
	TOTAL ESTIMATED COSTS	*\$5,000.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$5,000.00.

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject to the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

*Signature of Authorized Official of
Governmental Unit:*

Carl Swenson, Peoria City Manager
City of Peoria

Date Telephone

Date Telephone

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

		CFDA 20.600
1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-MC-002	
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-MC	
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: Russ Scarborough	
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: Motorcycle Safety Enforcement, Enforcement Related Materials and Supplies and Enforcement Related Equipment	
4. GUIDELINES: 402-Motorcycle Safety (MC)		
5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Personnel Services (Overtime), Materials and Supplies: Promo Items: Posters and Brochures and Capital Outlay: Traffic Cones to enhance Motorcycle Safety Enforcement throughout the City of Peoria.		
6. BUDGET COST CATEGORY	Project Period FFY 2016	
I. Personnel Services	\$8,945.00	
II. Employee Related Expenses	\$0.00	
III. Professional and Outside Services	\$0.00	
IV. Travel In-State	\$0.00	
V. Travel Out-of-State	\$0.00	
VI. Materials and Supplies	\$1,300.00	
VII. Capital Outlay	\$1,052.00	
TOTAL ESTIMATED COSTS	\$11,297.00	
PROJECT PERIOD	FROM: Effective Date (Date of GOHS Director Signature)	TO: 09-30-2016
CURRENT GRANT PERIOD	FROM: 10-01-2015	TO: 09-30-2016
TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$11,297.00		

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear of miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe).

Agency Problem:

The Peoria Police Department proposal is requesting grant funding for Motorcycle Safety Education overtime, Materials and Supplies: Promo Items – Posters and Brochures and Capital Outlay: Traffic Cones. The Peoria Police Department will utilize funding to promote Motorcycle Safety Education/Training and Awareness throughout the City of Peoria. The Peoria Police Department plans to improve traffic safety laws intended to reduce death, injury, and property damage and promote roadway safety. Along with, public awareness associated with the dangers of speeding, aggressive and distracted driving; while continuing to provide training and updates on traffic laws to the community of Peoria and Peoria Police Officers.

Agency Attempts to Solve Problem:

Like many cities in the Valley of the Sun, the Peoria Police Department has seen a large increase in the number of motorcycles being operated in the City of Peoria. The Peoria Police Department takes advantage of every opportunity to address the associated safety concerns with the Peoria community. The Peoria Police Department continues to teach traffic safety at each of Peoria's four (4) public high schools. In addition, traffic safety information is provided at Peoria Police Department venues such as Peoria's Citizen Police Academy, Seniors and Law Enforcement Together (SALT) and frequent community meetings.

Agency Attempts to Solve Problem:**Agency Funding:**

Federal 402 funds will support Personnel Services (Overtime), Materials and Supplies: Promo Items – Posters and Brochures and Capital Outlay: Traffic Cones to enhance Motorcycle Safety Enforcement throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department plans to utilize grant funding for Motorcycle Safety Education overtime, Materials and Supplies: Promo Items – Posters and Brochures and Capital Outlay: Traffic Cones; which will provide Education, Training, and Awareness within the City of Peoria. Also, the Peoria Police Department will continue to monitor the Motorcycle Safety Education program; and will continually report necessary statistical data to ensure accurate comparisons of traffic collisions, injuries, citations, and warnings that are issued. The

Peoria Police Department will continue to increase the public's awareness encompassing Motorcycle Safety; and continue to provide training and updates on traffic laws to Peoria Police Department Officers, including the City of Peoria.

GOALS/OBJECTIVES:

Federal 402 funds will support Personnel Services (Overtime), Materials and Supplies: Promo Items: Posters and Brochures and Capital Outlay: Traffic Cones to enhance Motorcycle Safety Enforcement throughout the City of Peoria.

Expenditures of funding pertaining to Motorcycle Safety including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Motorcycle Safety Program Goals provided by the Arizona Governor's Office of Highway Safety. The Motorcycle Safety Program goals include increasing public awareness using campaigns focused on motorcyclist behavior, providing information for the driving public and enhanced enforcement to remind the public to watch for and be careful around motorcycles throughout the State of Arizona.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of Motorcycle Safety Awareness in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services - To support Overtime for Motorcycle Safety Awareness Enforcement Activities

Materials and Supplies - To purchase/procure the following Materials and Supplies for Motorcycle Safety Awareness Enforcement Activities:

Promo Items – Posters and Brochures

Capital Outlay - To purchase/procure the following Capital Outlay for Motorcycle Safety Awareness Enforcement Activities:

Traffic Cones

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to

the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

EQUIPMENT:

Traffic Cones

Agencies receiving funding for Capital Outlay (major equipment) such as DUI Processing Vans, marked and unmarked enforcement sedans and marked enforcement motorcycles shall schedule a press conference that includes the Director of the Governor's Office of Highway Safety. The purpose of this press conference will be to present the equipment to the community.

The Peoria Police Department shall immediately notify GOHS if any equipment purchased under this contract ceases to be used in the manner described in this contract. In such event, the Peoria Police Department further agrees to dispose of this equipment using the Peoria Police Department's, city, town or county ordinance, code or rule regarding disposal of equipment.

In the absence of an ordinance, code or rule regarding the disposal of the property, the Peoria Police Department can refer to that of the state. The Peoria Police Department shall maintain or cause to be maintained for its useful life, any equipment purchased under this contract. The Peoria Police Department shall incorporate any equipment purchased under this Contract into its inventory records. The Peoria Police Department shall insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets this requirement.

Administrative and Maintenance Costs:

The Peoria Police Department shall be responsible for all administrative, maintenance, operational costs and the costs of any damage relating to the Traffic Cones.

Decals:

The Governor's Office of Highway Safety shall provide the Peoria Police Department with decals depicting the Governor's Office of Highway Safety logo. These decals shall be affixed to the equipment before being placed in service.

Equipment Purchase:

The equipment purchased under this contract shall be ordered, received, training completed, and placed in service prior to the end of the project period.

If the Agency cannot meet this requirement, the Agency must submit a letter of explanation signed by the Project Director on the Agency's letterhead via mail or hand delivered to the Director of the Governor's Office of Highway Safety within sixty (60) days before the end of the project period.

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

Original Purpose of Equipment:

Pursuant to 23 CFR §1200.21, all equipment purchased under this contract is to be used for the original purpose intended under this contract. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes and neither the State nor the Agency (sub-grantees) or contractors shall encumber the title or interest while such need exists.

The Governor's Office of Highway Safety may reserve the right to transfer title to equipment acquired under this the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes.

Furthermore, 49 CFR §18.32.c.1 states that equipment (acquired under this grant) shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

Insurance:

It is agreed that the Peoria Police Department shall adequately insure all capital equipment purchased under this contract for repair or replacement.

SPECIFIC REQUIREMENTS:**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –****Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles,

and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

Russ Scarborough, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th).

Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves <i>the right to bring</i>

	the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$8,945.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$1,300.00
	Promo Items – Posters and Brochures	
VII.	Capital Outlay	\$1,052.00
	Traffic Cones	
	TOTAL ESTIMATED COSTS	*\$11,297.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$11,297.00.

**QUARTERLY ENFORCEMENT REPORT
(Submitted to GOHS)**

Reporting Period

DESCRIPTION	CONTRACT ACTIVITY	AGENCY ACTIVITY
TOTAL DUI ARRESTS		
TOTAL MISDEMEANOR DUI ARRESTS		
TOTAL EXTREME DUI .15 ARRESTS		
TOTAL AGGRAVATED DUI ARRESTS		
TOTAL DUI DRUG ARRESTS		
TOTAL DRE EVALUATIONS		
SOBER DESIGNATED DRIVERS CONTACTED		
UNDERAGE ALCOHOL VIOLATIONS - TITLE 4		
UNDERAGE DUI ARRESTS		
UNDERAGE DUI-DRUG ARRESTS		
TOTAL AGENCY CITATIONS		
SPEED CITATIONS		
RED LIGHT RUNNING CITATIONS		
SEAT BELT CITATIONS		
CHILD SAFETY SEAT CITATIONS		

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.

B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject to the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):
Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

Date Telephone

***Signature of Authorized Official of
Governmental Unit:***

Carl Swenson, Peoria City Manager
City of Peoria

Date Telephone

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

CFDA 20.600

1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-PS-010	
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-PS	
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: Russ Scarborough	
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: Pedestrian Safety Enforcement and Education, Enforcement and Education Related Materials and Supplies and Enforcement and Education Related Equipment	
4. GUIDELINES: 402-Pedestrian Safety (PS)		
5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Personnel Services (Overtime), Materials and Supplies: Pamphlets and Educational Supplies and Capital Outlay: Bicycle Helmets to enhance Pedestrian Safety Enforcement and Education throughout the City of Peoria.		
6. BUDGET COST CATEGORY	Project Period FFY 2016	
I. Personnel Services	\$13,005.00	
II. Employee Related Expenses	\$0.00	
III. Professional and Outside Services	\$0.00	
IV. Travel In-State	\$0.00	
V. Travel Out-of-State	\$0.00	
VI. Materials and Supplies	\$1,500.00	
VII. Capital Outlay	\$4,964.00	
TOTAL ESTIMATED COSTS	\$19,469.00	
PROJECT PERIOD	FROM: Effective Date (Date of GOHS Director Signature)	TO: 09-30-2016
CURRENT GRANT PERIOD	FROM: 10-01-2015	TO: 09-30-2016
TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$19,469.00		

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe).

Agency Problem:

The Peoria Police Department proposal is requesting grant funding for Pedestrian and Bicycle Personnel Services (Overtime), Materials and Supplies: Pamphlets and Educational Supplies and Capital Outlay: Bicycle Helmets. The Peoria Police Department continues to implement enforcement that stems from Pedestrian and Bicycle safety; and will continue its contribution by educating the public of roadway safety throughout the City of Peoria.

Pedestrian and Bicycle Safety is another leading cause of serious injury and property damage in the State of Arizona. The human factor has been consistently identified in reducing Pedestrian and Bicycle incidents, by consistently using bike helmets and adhering to safety laws to prevent serious injury. The Pedestrian and Bicycle Safety Enforcement and Education strategy has been proven to significantly reduce the chance of injuries of pedestrians and cyclists. For these reasons, the Peoria Police Department is requesting grant funding to continue enforcement, education, and public awareness activities that focus on Pedestrian and Bicycle Safety, these programs are as follows:

- The Bicycle Safety Education project, where Peoria Police Department Officers educate children about various aspects of bicycle safety, and providing safety information for parents.
- The Bicycle Safety Rodeo project in partnership with GOHS, the Peoria Unified School District, Safe Kids, local merchants, community groups, parents, and children to promote the State's largest bicycle safety program.

Agency Attempts to Solve Problem:

The City of Peoria has addressed the problems that stem from vehicular traffic conflicting with pedestrians and bicycles operated by children. The City of Peoria Traffic Engineering Department has a full-time employee with the primary focus of working with Peoria schools to establish safe routes to schools, traffic ingress/egress plans, and school zone safety plans. The Peoria Police Department has assigned traffic officers to work with the staff at their assigned K-8 schools to identify emerging challenges, and to address them before they become problems. Addressing challenges typically starts with providing education and information to students and parents. The Peoria Police Department has worked diligently with the schools and the Peoria Traffic Engineering Department to create flyers that have been sent home with children. The Peoria Police Department has focused on traffic enforcement in school areas and has issued citations as warranted.

Westwing Elementary School faced a traffic safety challenge due to the high number of vehicles dropping off children each day, coupled with the design of the school's parking lot. Working in partnership with the City of Peoria Parent Teacher Association, the Peoria Police Department-Traffic Services Unit developed a "walking school bus" program that was named Walking Wednesdays. This program featured Peoria Police Department Officers, school personnel, community partners, parents, and children walking to school using established safe routes. After implementing the City of Peoria walking school bus program, school staff reported that the traffic problems were substantially decreased.

Working in collaboration with Peoria Traffic Engineering Department, Peoria Police Department Officers have worked diligently with schools to create educational flyers that have been sent home with children. Also, the Peoria Police Department has focused on traffic enforcement in school areas, and has posted plain clothes officers to monitor activity in school zones. During the first two weeks of the school year and following fall and spring breaks, Peoria Police Department strives to educate motorists about the hazards of speeding around schools and parking improperly, which create hazardous situations. When Peoria Police Department Officers see parking violations during the first two weeks of school, educational flyers are handed-out rather than issuing citations. The hope is to gain voluntary compliance throughout the rest of the school year. The Peoria Police Department has had great success through this approach over the past two school years.

For the past four years Peoria Police Department-Traffic Services Unit (TSU) officers have volunteered to assist in training local school crossing guards. Through hours of coordination last year, Peoria Police Officers were able to provide important training regarding traffic laws that pertain to school zones and bus safety to more than 200 school crossing guards who attended a day of training here in Peoria. The Peoria Police Department will continue to provide this important service.

As some of the new roadways have been opened in the City of Peoria, the Peoria Police Department has addressed the anticipated challenges by concentrating enforcement efforts over a short period of time. Although concentrated enforcement can be effective, extended and ongoing enforcement is problematic due to costs and staffing limitations. School zone and school bus safety education is a way to ensure the ongoing safety of children. The Peoria Police Department will continue to educate motorists about the hazards of driving too quickly around schools and school zones, and the need to be aware of children in those locations.

In partnership with the San Diego Padres and the Seattle Mariners, the Peoria Police Department now promote school traffic safety at each of our MLB Spring Training games at the Peoria Sports Complex during the month of March. Safety messages are prominently displayed on the scoreboard during each game. In 2010, the Peoria Police Department used roadside electronic billboards to display messages pertaining to school traffic safety. The Peoria Police Department estimated that during a 30 day period more than one million vehicles saw these important messages at least once.

For the past four years, the Peoria Police Department has partnered with GOHS on a Bicycle Safety initiative. In January 2014, the Peoria Police Department hosted a Bicycle Safety Rodeo. This was the culminating event for Peoria Police Department Bicycle Safety Partnership, which involved hours of coordination, collaboration, and preparation. Peoria schools (K-8) within the City of Peoria, including surrounding cities, shared in Peoria PD's excitement, and allowed Peoria Police Officers to present bicycle safety information to all K-8 students (more than 20,000 students). A Public Safety Announcement video was produced and distributed to each school to share with their students. Educational materials (coloring books focusing on Bicycle Safety for younger kids and comic books for the older children) were provided to students. Additional materials were sent home with students. Students ages five through twelve were invited to attend the Bicycle Safety Rodeo, so they could put what they learned into practice. Approximately 1,232 people attended the 2014 Bicycle Safety Rodeo. More than 432 school age children participated in the skills challenge, practiced what they learned during classroom presentations, and remained at the event for other family oriented activities. The Peoria Police Department Bicycle Safety event still proves to be the largest bicycle rodeo in the State of Arizona.

Since the first Bike Rodeo in January 2011, the Peoria Police Department has grown immensely. The Peoria Police Department now has more than 40 partners who share in enthusiasm and help to make the Rodeo possible. Even more exciting is the fact this year the Peoria Police Department reached out to more than 20,000 kids to provide bike safety education. This is an increase of 335% in just two years! The Peoria Police Bicycle Officers/Team has begun to share the mission of educating children about bike safety.

Agency Funding:

Federal 402 funds will support Personnel Services (Overtime), Materials and Supplies: Pamphlets and Educational Supplies and Capital Outlay: Bicycle Helmets to enhance Pedestrian Safety Enforcement and Education throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department plans to utilize grant funding to support Pedestrian and Bicycle Safety Personnel Services (Overtime), Materials and Supplies: Pamphlets and Educational Supplies and Capital Outlay: Bicycle Helmets. The Peoria Police Department will continue the Bicycle Safety Partnership by focusing on the following objectives:

- Enhance the Peoria Police Department Bicycle Safety Partnership and secure the commitment of resources from identified partners by January 1, 2016.
- Procure necessary educational materials prior to January 1, 2016.
- Procure necessary equipment (bicycle helmets, promotional materials, etc.) prior to mid-January 2016.
- Host Bicycle Rodeo's for children and their families utilizing Peoria local high schools and their feeder elementary schools prior to September 30, 2016.
- Conduct Media Campaign:
 - Working with the Peoria Police Department Public Information Officer, which will launch a media campaign focused on Pedestrian and Bicycle safety. The campaign will target television, radio, and print media.
 - Local media will provide news coverage of the Bicycle Rodeo's.
- Present Educational Information at schools in Peoria (K-8):
 - The partnership will provide educational materials (production costs absorbed by the Peoria Police Department).
 - Approved safety materials will be distributed to children and their parents.
 - Children will be invited to attend the Bicycle Rodeo's.
 - High School NJHS programs will be invited to assist as mentors
- Procure Equipment for the Bicycle Rodeo:
 - Purchase bicycle helmets that will be provided (free of charge) to children who are in need of them.
 - Purchase promotional items (water bottles, school items, stickers, etc.).

- Secure materials needed to set up the bicycle courses (traffic cones, barrier tape, signs).
- Host the Bicycle Rodeo's:
 - These events will be publicized by the media, mailers and e-mail. The Peoria Police Department will ensure that all stakeholders and partners participate and are recognized.
 - A free bicycle safety check (including minor repairs) will be available for participants.
 - The Peoria Police Department-TSU and patrol officers will provide demonstrations.
 - Participants will have the opportunity to ride through a structured bicycle safety skills course which will focus on safe riding.

GOALS/OBJECTIVES:

Federal 402 funds will support Personnel Services (Overtime), Materials and Supplies: Pamphlets and Educational Supplies and Capital Outlay: Bicycle Helmets to enhance Pedestrian Safety Enforcement and Education throughout the City of Peoria.

Expenditures of funding pertaining to the PS/Pedestrian and Bicycle Safety Program including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Pedestrian and Bicycle Safety Program Goals provided by the Arizona Governor's Office of Highway Safety. The Pedestrian and Bicycle Safety Program Goal is to reduce the incidence of pedestrian and bicycle fatalities and injuries on roadways and in School Zones through enforcement, education and public awareness throughout the State of Arizona.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of Pedestrian/Bicycle Safety in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services - To support Overtime for Pedestrian/Bicycle Safety Enforcement and Education Activities

Materials and Supplies - To purchase/procure the following Materials and Supplies for Pedestrian/Bicycle Safety Enforcement and Education Activities:
Pamphlets and Educational Supplies

Capital Outlay - To purchase/procure the following Capital Outlay for Pedestrian/Bicycle Safety Enforcement and Education Activities:
Bicycle Helmets

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to

the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

EQUIPMENT:

Bicycle Helmets

Agencies receiving funding for Capital Outlay (major equipment) such as DUI Processing Vans, marked and unmarked enforcement sedans and marked enforcement motorcycles shall schedule a press conference that includes the Director of the Governor's Office of Highway Safety. The purpose of this press conference will be to present the equipment to the community.

The Peoria Police Department shall immediately notify GOHS if any equipment purchased under this contract ceases to be used in the manner described in this contract. In such event, the Peoria Police Department further agrees to dispose of this equipment using the Peoria Police Department's, city, town or county ordinance, code or rule regarding disposal of equipment.

In the absence of an ordinance, code or rule regarding the disposal of the property, the Peoria Police Department can refer to that of the state. The Peoria Police Department shall maintain or cause to be maintained for its useful life, any equipment purchased under this contract. The Peoria Police Department shall incorporate any equipment purchased under this Contract into its inventory records. The Peoria Police Department shall insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets this requirement.

Administrative and Maintenance Costs:

The Peoria Police Department shall be responsible for all administrative, maintenance, operational costs and the costs of any damage relating to the Bicycle Helmets.

Decals:

The Governor's Office of Highway Safety shall provide the Peoria Police Department with decals depicting the Governor's Office of Highway Safety logo. These decals shall be affixed to the equipment before being placed in service.

Equipment Purchase:

The equipment purchased under this contract shall be ordered, received, training completed, and placed in service prior to the end of the project period.

If the Agency cannot meet this requirement, the Agency must submit a letter of explanation signed by the Project Director on the Agency's letterhead via mail or hand delivered to the Director of the Governor's Office of Highway Safety within sixty (60) days before the end of the project period.

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

Original Purpose of Equipment:

Pursuant to 23 CFR §1200.21, all equipment purchased under this contract is to be used for the original purpose intended under this contract. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes and neither the State nor the Agency (sub-grantees) or contractors shall encumber the title or interest while such need exists.

The Governor's Office of Highway Safety may reserve the right to transfer title to equipment acquired under this the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes.

Furthermore, 49 CFR §18.32.c.1 states that equipment (acquired under this grant) shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

Insurance:

It is agreed that the Peoria Police Department shall adequately insure all capital equipment purchased under this contract for repair or replacement.

SPECIFIC REQUIREMENTS:**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –****Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles,

and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

Russ Scarborough, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th).

Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.

The RCI template and instructions are available on the Governor’s Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring

	the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$13,005.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies Pamphlets and Educational Supplies	\$1,500.00
VII.	Capital Outlay Bicycle Helmets	\$4,964.00
	TOTAL ESTIMATED COSTS	*\$19,469.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$19,469.00.

**QUARTERLY ENFORCEMENT REPORT
(Submitted to GOHS)**

Reporting Period

DESCRIPTION	CONTRACT ACTIVITY	AGENCY ACTIVITY
TOTAL DUI ARRESTS		
TOTAL MISDEMEANOR DUI ARRESTS		
TOTAL EXTREME DUI .15 ARRESTS		
TOTAL AGGRAVATED DUI ARRESTS		
TOTAL DUI DRUG ARRESTS		
TOTAL DRE EVALUATIONS		
SOBER DESIGNATED DRIVERS CONTACTED		
UNDERAGE ALCOHOL VIOLATIONS - TITLE 4		
UNDERAGE DUI ARRESTS		
UNDERAGE DUI-DRUG ARRESTS		
TOTAL AGENCY CITATIONS		
SPEED CITATIONS		
RED LIGHT RUNNING CITATIONS		
SEAT BELT CITATIONS		
CHILD SAFETY SEAT CITATIONS		

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

*Signature of Authorized Official of
Governmental Unit:*

Carl Swenson, Peoria City Manager
City of Peoria

Date Telephone

Date Telephone

AUTHORITY & FUNDS

1. This Project is authorized by 23 U.S.C. §402 and regulations promulgated there under, more particularly Volume 102, and if State funds are involved, this project is authorized by ARS §28-602.

The funds authorized for this Project have been appropriated and budgeted by the U.S. Department of Transportation. The expenses are reimbursable under Arizona's Highway Safety Plan Program Area 402-PS, as approved for by the National Highway Traffic Safety Administration.

- | | | |
|----|--------------------------------------|---------------------------|
| 2. | A. EFFECTIVE DATE: | B. FEDERAL FUNDS: |
| | <i>Authorization to Proceed Date</i> | <u>\$19,469.00</u> |

3. **AGREEMENT AND AUTHORIZATION TO PROCEED**
by State Official responsible to Governor for the
administration of the State Highway Safety Agency

Alberto Gutier, Director
Governor's Office of Highway Safety
Governor's Highway Safety Representative

Approval Date

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

CFDA 20.600

1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-PT-024
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-PT
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: Russ Scarborough
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: STEP Enforcement Overtime
4. GUIDELINES: 402-Police Traffic (PT)	
5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Personnel Services (Overtime) to enhance STEP Enforcement throughout the City of Peoria.	
6. BUDGET COST CATEGORY	Project Period FFY 2016
I. Personnel Services	\$20,000.00
II. Employee Related Expenses	\$0.00
III. Professional and Outside Services	\$0.00
IV. Travel In-State	\$0.00
V. Travel Out-of-State	\$0.00
VI. Materials and Supplies	\$0.00
VII. Capital Outlay	\$0.00
TOTAL ESTIMATED COSTS	\$20,000.00
PROJECT PERIOD	FROM: Effective Date (Date of GOHS Director Signature) TO: 09-30-2016
CURRENT GRANT PERIOD	FROM: 10-01-2015 TO: 09-30-2016
TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$20,000.00	

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear of miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe). The Peoria Police Department, Traffic Services Unit (TSU), consists of five speed enforcement officers, a commercial vehicle safety officer, an enforcement officer who focuses on vehicle crimes and follow-up investigations.

Agency Problem:

The Peoria Police Department proposal is requesting grant funding for STEP/Speed enforcement overtime. The STEP/Speed enforcement overtime will be utilized to participate in STEP details and saturation patrols throughout the City of Peoria, while educating the community. The Peoria Police Department plans to improve the enforcement of traffic safety laws intended to reduce death, injury, and property damage and promote roadway safety; along with deterring aggressive and distracted drivers. The Peoria Police Department will continue public awareness associated with the dangers of speeding, aggressive and distracted driving; while continuing to provide training and updates on traffic laws to Peoria Police Department Officers.

Agency Attempts to Solve Problem:

The Peoria Police Department has gone to great lengths to solve the problems that stem from speeding vehicles and red light running. As witnessed by the number of citations that Peoria Police Department regularly writes each year, the innovative speed programs that are employed, the amazing partnerships that is built within Peoria's community and with other agencies, Peoria Police Department invest a considerable amount of time and energy in enforcing the State's traffic laws. As some of the new roadways have been opened in City of Peoria, the Peoria Police Department has addressed anticipated challenges by working with Peoria's City Traffic Engineering Department during the design process. The Peoria Police Department continues to be an integral part in the review of traffic movement and engineering within the City of Peoria by actively engaging in the Traffic Control Committee meetings each month.

The Peoria Police Department has seen success in enforcement when Peoria Police Department concentrates maximum enforcement over a short period of time. Also, the Peoria Police Department uses a similar approach to deployment in areas of increased crime that have been identified through predictive policing measures to be related to high collision areas. Peoria Police Department's employment of the DDACTS (Data Driven Approach to Crime and Traffic Safety) philosophy to reduce both crime and traffic collisions has resulted in an exponential increase in traffic enforcement department wide. Although concentrated enforcement proves effective for a time, extended enforcement is difficult to achieve due to costs and staffing limitations.

The Peoria Police Department – Traffic Services Unit (TSU) has piloted several innovative traffic safety programs to address vehicle collision reduction. TSU Sergeants compile weekly and monthly crash data

statistics and use that information for data driven deployment of personnel. The Peoria Police Department has found that sporadic use of plain clothed officers to assist via covert speed enforcement works very well in high demand areas. Likewise, Peoria Police Department has found that deterrence through high visibility and public education has been another effective tool. The Peoria Police Department continues to work towards a balance of various types of traffic enforcement.

Agency Funding:

Federal 402 funds will support Personnel Services (Overtime) to enhance STEP Enforcement throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department plans to utilize grant funding for STEP/Speed/Police Traffic overtime enforcement throughout the federal fiscal year by participating in STEP/Speed Task Force details and saturation patrols. The Peoria Police Department will continue to monitor the STEP/Speed enforcement program; and will continually report necessary STEP/Speed/Police Traffic statistical data to ensure accurate comparisons of STEP/Speed citations, and warnings that are issued. The Peoria Police Department will continue to increase the public's awareness associated with the dangers of speeding, aggressive/distracted driving; and continue to provide training and updates on traffic laws to Peoria Police Department Officers.

GOALS/OBJECTIVES:

Federal 402 funds will support Personnel Services (Overtime) to enhance STEP Enforcement throughout the City of Peoria.

Expenditures of funding pertaining to the PT/Selective Traffic Enforcement Program including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the PT/Selective Traffic Enforcement Program Goals provided by the Arizona Governor's Office of Highway Safety. The PT/Selective Traffic Enforcement Program Goal is to reduce the incidence of traffic fatalities and injuries resulting from speeding, aggressive driving, red light running and other forms of risky driving behavior through enforcement, education and public awareness throughout the State of Arizona.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of Speeding in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services - To support Overtime for STEP/Speed Enforcement Activities

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

SPECIFIC REQUIREMENTS:**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –****Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

Russ Scarborough, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th). **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$20,000.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay	\$0.00
	TOTAL ESTIMATED COSTS	*\$20,000.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$20,000.00.

**QUARTERLY ENFORCEMENT REPORT
(Submitted to GOHS)**

Reporting Period

DESCRIPTION	CONTRACT ACTIVITY	AGENCY ACTIVITY
TOTAL DUI ARRESTS		
TOTAL MISDEMEANOR DUI ARRESTS		
TOTAL EXTREME DUI .15 ARRESTS		
TOTAL AGGRAVATED DUI ARRESTS		
TOTAL DUI DRUG ARRESTS		
TOTAL DRE EVALUATIONS		
SOBER DESIGNATED DRIVERS CONTACTED		
UNDERAGE ALCOHOL VIOLATIONS - TITLE 4		
UNDERAGE DUI ARRESTS		
UNDERAGE DUI-DRUG ARRESTS		
TOTAL AGENCY CITATIONS		
SPEED CITATIONS		
RED LIGHT RUNNING CITATIONS		
SEAT BELT CITATIONS		
CHILD SAFETY SEAT CITATIONS		

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):
Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

*Signature of Authorized Official of
Governmental Unit:*

Carl Swenson, Peoria City Manager
City of Peoria

Date Telephone

Date Telephone

HIGHWAY SAFETY CONTRACT

This page, the Project Directors Manual and attached hereto and incorporated herein by reference, constitute the entire contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

		CFDA 20.600
1. APPLICANT AGENCY Peoria Police Department	GOHS CONTRACT NUMBER: 2016-SB-001	
ADDRESS 8351 W. Cinnabar Ave, Peoria, AZ 85345	PROGRAM AREA: 402-SB	
2. GOVERNMENTAL UNIT City of Peoria	AGENCY CONTACT: Russ Scarborough	
ADDRESS 8401 W. Monroe Street, Peoria, AZ 85345	3. PROJECT TITLE: School Bus Safety Enforcement and Education, Enforcement and Related Materials and Supplies	
4. GUIDELINES: 402-School Bus Safety (SB)		
5. BRIEFLY STATE PURPOSE OF PROJECT: Federal 402 funds will support Personnel Services (Overtime) and Materials and Supplies: Promo Items: Pamphlets to enhance School Bus Safety Enforcement throughout the City of Peoria.		
6. BUDGET COST CATEGORY		Project Period FFY 2016
I. Personnel Services		\$6,480.00
II. Employee Related Expenses		\$0.00
III. Professional and Outside Services		\$0.00
IV. Travel In-State		\$0.00
V. Travel Out-of-State		\$0.00
VI. Materials and Supplies		\$1,000.00
VII. Capital Outlay		\$0.00
TOTAL ESTIMATED COSTS		\$7,480.00

PROJECT PERIOD FROM: Effective Date (Date of GOHS Director Signature) TO: 09-30-2016

CURRENT GRANT PERIOD FROM: 10-01-2015 TO: 09-30-2016

TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$7,480.00

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

The City of Peoria was incorporated in 1954, and is located approximately seven miles northwest of the City of Phoenix in Maricopa County. As one of the fastest growing cities in the country, the population of Peoria has increased from 108,364 in 2000 to 160,504 in 2013. This dramatic growth in population has resulted in a significant increase in vehicle traffic on the City of Peoria roadways. To accommodate the increase in traffic, Peoria built an additional 178 linear miles of roadway from 2000 to 2009, which is an increase of 33% of roadway throughout the nearly 180 square miles that comprise the City of Peoria. The City of Peoria is bisected by four state highways, which makes Peoria a highly accessible location. Currently, there are more than 583 linear of miles of roadway within the City of Peoria with more being developed.

Peoria is diverse in terms of demographics. The population median age is 37 years old, with a median household income of \$74,985 per year (2012 City Highlights, Peoria Economic Development Services). The Peoria Police Department consists of 292 employees who support a strong Community Oriented Policing philosophy, which shapes the way the Peoria Police Department conducts daily business. With 191 authorized sworn positions, the Peoria Police Department has approximately 1.18 officers per 1,000 residents. Other cities have indicated ratios of 2.01 officers per 1,000 residents (Phoenix), and 2.07 officers per 1,000 residents (Tempe).

Agency Problem:

The Peoria Police Department proposal is requesting grant funding for School Zone Safety Enforcement Personnel Services (Overtime) and Materials and Supplies: Promo Items: Pamphlets. The Peoria Police Department continues to implement enforcement that stems from School Zone safety and will continue its contribution by educating the public of roadway safety throughout the City of Peoria.

School Zone Safety is another leading cause of serious injury and property damage in the State of Arizona. The School Zone Safety Enforcement and Education strategy has been proven to significantly reduce the chance of injuries of pedestrians and cyclists. For these reasons, the Peoria Police Department is requesting grant funding to continue enforcement, education, and public awareness activities that focus on School Zone Safety, these programs are as follows:

- The Back to School enforcement project, which targets drivers around Peoria schools and school bus stops at the beginning of the school year and after spring break.
- The School Bus Safety project, where Peoria Police Department Officers work with the Peoria Unified School District to identify locations experiencing violations of school bus loading and passing laws.
- The School Safety Education project, which educates Peoria motorists about traffic laws pertaining to school zones and school buses.
- The School Zone Speed enforcement project, where Peoria Police Department Officers (sometimes in plain clothes) monitor traffic speed around schools.

For years, the Peoria Police Department has put a great deal of emphasis on school traffic safety. Each year, the Peoria Police Department conducts a Back to School campaign designed primarily to deter improper driving around Peoria local schools; and find these campaigns particularly effective immediately following break periods, such as the summer, fall and spring breaks. Deterrence is accomplished through education and by one-on-one contact with Peoria motorists. This campaign also includes enforcement efforts, which come with a strong message that the safety of our children is paramount. The Peoria Police Department is concerned with the motorists who fail to follow traffic laws relating to school safety.

The Peoria Police Department has been successful in maintaining personal relationships with Peoria schools through the assignment of Peoria Police Department Officers from the Traffic Services Unit (TSU) to each of K-8 schools. One benefit of this program has been the rapid detection of any emerging challenges, and the ability to address the challenges before they become problems. The Peoria Police Department Officers continue to witness the potential for harm to young children as they travel on their bicycles and the Peoria Police Department would like to continue the educational/awareness approach to solving this problem.

Agency Attempts to Solve Problem:

The City of Peoria has addressed the problems that stem from vehicular traffic conflicting with pedestrians and bicycles operated by children. The City of Peoria Traffic Engineering Department has a full-time employee with the primary focus of working with Peoria schools to establish safe routes to schools, traffic ingress/egress plans, and school zone safety plans. The Peoria Police Department has assigned traffic officers to work with the staff at their assigned K-8 schools to identify emerging challenges, and to address them before they become problems. Addressing challenges typically starts with providing education and information to students and parents. The Peoria Police Department has worked diligently with the schools and the Peoria Traffic Engineering Department to create flyers that have been sent home with children. The Peoria Police Department has focused on traffic enforcement in school areas and has issued citations as warranted.

Westwing Elementary School faced a traffic safety challenge due to the high number of vehicles dropping off children each day, coupled with the design of the school's parking lot. Working in partnership with the City of Peoria Parent Teacher Association, the Peoria Police Department-Traffic Services Unit developed a "walking school bus" program that was named Walking Wednesdays. This program featured Peoria Police Department Officers, school personnel, community partners, parents, and children walking to school using established safe routes. After implementing the City of Peoria walking school bus program, school staff reported that the traffic problems were substantially decreased.

Working in collaboration with Peoria Traffic Engineering Department, Peoria Police Department Officers have worked diligently with schools to create educational flyers that have been sent home with children. Also, the Peoria Police Department has focused on traffic enforcement in school areas, and has posted plain clothes officers to monitor activity in school zones. During the first two weeks of the school year and following fall and spring breaks, Peoria Police Department strives to educate motorists about the hazards of speeding around schools and parking improperly, which create hazardous situations. When Peoria Police Department Officers see parking violations during the first two weeks of school, educational flyers are handed-out rather than issuing citations. The hope is to gain voluntary compliance throughout the rest of the school year. The Peoria Police Department has had great success through this approach over the past two school years.

For the past four years Peoria Police Department-Traffic Services Unit (TSU) officers have volunteered to assist in training local school crossing guards. Through hours of coordination last year, Peoria Police Officers were able to provide important training regarding traffic laws that pertain to school zones and bus safety to more than 200 school crossing guards who attended a day of training here in Peoria. The Peoria Police Department will continue to provide this important service.

As some of the new roadways have been opened in the City of Peoria, the Peoria Police Department has addressed the anticipated challenges by concentrating enforcement efforts over a short period of time. Although concentrated enforcement can be effective, extended and ongoing enforcement is problematic due to costs and staffing limitations. School zone and school bus safety education is a way to ensure the ongoing safety of children. The Peoria Police Department will continue to educate motorists about the hazards of driving too quickly around schools and school zones, and the need to be aware of children in those locations.

In partnership with the San Diego Padres and the Seattle Mariners, the Peoria Police Department now promote school traffic safety at each of our MLB Spring Training games at the Peoria Sports Complex during the month

of March. Safety messages are prominently displayed on the scoreboard during each game. In 2010, the Peoria Police Department used roadside electronic billboards to display messages pertaining to school traffic safety. The Peoria Police Department estimated that during a 30 day period more than one million vehicles saw these important messages at least once.

For the past four years, the Peoria Police Department has partnered with GOHS on a Bicycle Safety initiative. In January 2014, the Peoria Police Department hosted a Bicycle Safety Rodeo. This was the culminating event for Peoria Police Department Bicycle Safety Partnership, which involved hours of coordination, collaboration, and preparation. Peoria schools (K-8) within the City of Peoria, including surrounding cities, shared in Peoria PD's excitement, and allowed Peoria Police Officers to present bicycle safety information to all K-8 students (more than 20,000 students). A Public Safety Announcement video was produced and distributed to each school to share with their students. Educational materials (coloring books focusing on Bicycle Safety for younger kids and comic books for the older children) were provided to students. Additional materials were sent home with students. Students ages five through twelve were invited to attend the Bicycle Safety Rodeo, so they could put what they learned into practice. Approximately 1,232 people attended the 2014 Bicycle Safety Rodeo. More than 432 school age children participated in the skills challenge, practiced what they learned during classroom presentations, and remained at the event for other family oriented activities. The Peoria Police Department Bicycle Safety event still proves to be the largest bicycle rodeo in the State of Arizona.

Since the first Bike Rodeo in January 2011, the Peoria Police Department has grown immensely. The Peoria Police Department now has more than 40 partners who share in enthusiasm and help to make the Rodeo possible. Even more exciting is the fact this year the Peoria Police Department reached out to more than 20,000 kids to provide bike safety education. This is an increase of 335% in just two years! The Peoria Police Bicycle Officers/Team has begun to share the mission of educating children about bike safety.

Agency Funding:

Federal 402 funds will support Personnel Services (Overtime) and Materials and Supplies: Promo Items: Pamphlets to enhance School Bus Safety Enforcement throughout the City of Peoria.

How Agency Will Solve Problem With Funding:

The Peoria Police Department plans to utilize grant funding to support School Zone Safety Enforcement Personnel Services (Overtime) and Materials and Supplies: Promo Items: Pamphlets. The Peoria Police Department will continue the School Zone Safety Partnership by focusing on the following objectives:

- Launch a media campaign announcing the grant award and focusing on the importance of school zone safety.
- Operate the Back to School enforcement project in March 2016 as children return to school from Spring Break.
- Operate the Back to School enforcement project in August 2016 as children return to school following the Summer Break.
- Conduct a sustained School Traffic Safety Enforcement program that is multi-faceted and innovative.
- Procure necessary School Zone Safety educational materials prior to January 1, 2016.
- Produce an electronic billboard PSA promoting school traffic safety to run for 30 days during the month of July (just before the new start of school).

- School Bus Safety:
 - Peoria Police Department Officers will conduct enforcement activities around school bus stops based upon input and feedback from the Peoria Unified School District Transportation Department and officer observation.
- School Zone Speed Enforcement:
 - Teams of Peoria Police Department Officers will be scheduled to conduct school zone speed enforcement activities during the start and release times for our schools.
- School Safety Education:
 - The Peoria Police Department will continue public education campaign targeting motorists by posting educational messages on dynamic message boards along our streets, during Spring Training games at the Peoria Sports Complex and at other opportunities.
- Back to School Enforcement:
 - The Peoria Police Department will schedule teams of Peoria Police Officers to conduct enforcement activities around Peoria schools during the week following Spring Break (March 2016), and during the start of the next school year (August 2016).
- Present Educational Information at schools in Peoria (K-8):
 - The partnership will provide educational materials (production costs absorbed by the Peoria Police Department).
 - Approved safety materials will be distributed to children and their parents.
 - Children will be invited to attend the Bicycle Rodeo.
 - High School NJHS programs will be invited to assist as mentors

GOALS/OBJECTIVES:

Federal 402 funds will support Personnel Services (Overtime) and Materials and Supplies: Promo Items: Pamphlets to enhance School Bus Safety Enforcement throughout the City of Peoria.

Expenditures of funding pertaining to the SB/School Bus Safety Program including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the School Bus Safety Program Goals provided by the Arizona Governor's Office of Highway Safety. The School Bus Safety Program Goal is to reduce the incidence of pedestrian and bicycle fatalities and injuries on roadways in School Zones through enforcement, education and public awareness throughout the State of Arizona.

MEDIA RELEASE

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of School Zone Safety in terms of money, criminal and human consequences.**

The Peoria Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Peoria Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency.

METHOD OF PROCEDURE:

The Peoria Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services - To support Overtime for School Zone Safety Enforcement Activities

Materials and Supplies - To purchase/procure the following Materials and Supplies for School Zone Safety Enforcement Activities:
Promo Items: Pamphlets

PRESS RELEASE:

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed contract. A copy of this press release shall be sent to the GOHS Director at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

BAC TESTING AND REPORTING REQUIREMENTS:

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

PURSUIT POLICY:

All law enforcement agencies receiving federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

SPECIFIC REQUIREMENTS:**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –****Requirements for Professional and Outside Services:**

A copy of all contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub grantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurement procedures conform to applicable federal laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State Procurement process.

A clear audit trail must be established to determine costs charged against this contract. Substantiation of costs shall, where possible, be made utilizing the Peoria Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure that the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report (October 1 to December 31, 2015)	January 30, 2016
2nd Quarterly Report (January 1 to March 31, 2016)	April 30, 2016
3rd Quarterly Report (April 1 to June 30, 2016)	July 30, 2016
4th Quarterly Report (July 1 to September 30, 2016)	October 15, 2016
Final Statement of Accomplishment	October 15, 2016

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishment

The Project Director shall submit a Final Statement of Accomplishment Report to the GOHS **no later than thirty (30) days after the conclusion of each federal fiscal year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishment Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of federal funds or termination of the contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Roy Minter, Chief, Peoria Police Department, shall serve as Project Director.

Russ Scarborough, Sergeant, Peoria Police Department, shall serve as Project Administrator.

Renee Bracamonte, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation, to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of each federal fiscal year (September 30th). **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	In-House GOHS Review
\$100,000+	On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to contractual project including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to contract, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the grantee's respective federal file. Findings will be discussed with the grantee designated contract representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The Project Period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30 of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Project Director will submit notification on the Agency's letterhead and hand-deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of 90 days prior to the end of the project period.

The Agency shall address all requests to modify the contract to the Director of the Governor's Office of Highway Safety on Agency letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the contract. Any unexpended funds remaining at the termination of the contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$6,480.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$1,000.00
	Promo Items: Pamphlets	
VII.	Capital Outlay	\$0.00
	TOTAL ESTIMATED COSTS	*\$7,480.00

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Peoria Police Department shall absorb any and all expenditures in excess of \$7,480.00.

**QUARTERLY ENFORCEMENT REPORT
(Submitted to GOHS)**

Reporting Period

DESCRIPTION	CONTRACT ACTIVITY	AGENCY ACTIVITY
TOTAL DUI ARRESTS		
TOTAL MISDEMEANOR DUI ARRESTS		
TOTAL EXTREME DUI .15 ARRESTS		
TOTAL AGGRAVATED DUI ARRESTS		
TOTAL DUI DRUG ARRESTS		
TOTAL DRE EVALUATIONS		
SOBER DESIGNATED DRIVERS CONTACTED		
UNDERAGE ALCOHOL VIOLATIONS - TITLE 4		
UNDERAGE DUI ARRESTS		
UNDERAGE DUI-DRUG ARRESTS		
TOTAL AGENCY CITATIONS		
SPEED CITATIONS		
RED LIGHT RUNNING CITATIONS		
SEAT BELT CITATIONS		
CHILD SAFETY SEAT CITATIONS		

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR, Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Equal Opportunity

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Contract submitted under the Highway Safety Act of 1966, as amended, hereby gives its assurance that employment in connection with the subject Highway Safety Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Contract, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964 and all applicable requirements of the Department of Commerce regulations as adopted by the USDOT, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

AGENCY will notify all of its employees whose principal employment is in connection with any highway safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, as amended, of the provisions of the Hatch Act (5 U.S.C. §7321 et. seq.).

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. Policy: It is the policy of the USDOT that minority business enterprises as defined in 49 CFR, Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR, Part 23 apply to this Contract.
- B. Obligation: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR, Part 23 have the subcontracts financed in whole or in part with Federal funds

provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.

- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

In accordance with the Buy America Act (49 U.S.C. 5323(j)):

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Lobbying Restrictions

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Roy Minter, Chief
Peoria Police Department

Signature of Authorized Official of Governmental Unit:

Carl Swenson, Peoria City Manager
City of Peoria

Date Telephone

Date Telephone

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 9C

Date Prepared: September 17, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Bobby Ruiz, Fire Chief

THROUGH: Jeff Tyne, Deputy City Manager

SUBJECT: Authorization to accept grant funds from the Arizona Department of Homeland Security

Purpose:

This is a request for City Council to authorize the Peoria Fire-Medical Department to accept two grants from the Arizona Department of Homeland Security totaling \$63,280.

Background/Summary:

The City of Peoria Fire-Medical Department has been working collaboratively over the past several years to develop various emergency response programs. In order to further integrate Peoria as part of the statewide disaster response program, the Peoria Fire-Medical Department has received 2015 Homeland Security Grant funds from the Arizona Department of Homeland Security (AZDOHS) in the amount of \$63,280 to 1) strengthen chemical, biological, radiological, nuclear or explosive (CBRNE) weapon detection, response and decontamination capabilities; and 2) sustain and enhance the Terrorism Liaison Officer (TLO) program.

The Fire Department received an award in the amount of \$50,000 to purchase supplies and provide training to support, enhance and maintain CBRNE operations.

The Fire Department also received an award in the amount of \$13,280 to purchase equipment and supplies to support TLO operations and provide access to critical information when out in the field. The TLO program functions as a Field Intelligence Unit in support of police tactical, hazardous material, explosive special operations and uncommon event types.

These grants are reimbursable with funding through September 2016.

Previous Actions:

City Council has previously accepted grants from AZDOHS. This will be the ninth consecutive year that the City of Peoria has received grant funding from this organization.

Options:

A: Accept two grant awards in the amount of \$63,280 from the Arizona Department of Homeland Security and approve a budget adjustment in the amount of \$63,280 from the Proposed Grants Contingency Account to the Homeland Security Fund, thus providing expenditure authority.

B: Choose not to accept the grants from the Arizona Department of Homeland Security.

Staff's Recommendation:

Authorize the Peoria Fire-Medical Department to accept two grants totaling \$63,280 from the Arizona Department of Homeland Security and approve a budget adjustment.

Fiscal Analysis:

Request a budget adjustment of \$63,280 from the Proposed Grants Contingency account (7990-7990-570000) to the Homeland Security Grant Fund (7670-7870-various accounts) thus providing expenditure authority.

Dept	Account #	Description	Amount	Program
Fire	7670-7870-530010	Wearing Apparel-Safety	\$1,008	CBRNE
Fire	7670-7870-530019	Operational Supplies/Equipment	\$9,892	CBRNE
Fire	7670-7870-524007	Tools R & M	\$9,500	CBRNE
Fire	7670-7870-530003	Computer Hardware	\$2,000	CBRNE
Fire	7670-7870-520511	Training	\$27,600	CBRNE
Fire	7670-7870-520020	CAD Dispatch Services	\$3,250	TLO
Fire	7670-7870-530028	Electronic Supplies/Equipment	\$7,000	TLO
Fire	7670-7870-530003	Computer Hardware	\$3,030	TLO

Narrative:

Once approved by City Council, the grant contracts will be executed as needed.

Exhibit(s):

Exhibit 1: Award Letter and Sub-grantee Agreement from AZDOHS for CBRNE Grant 150814-02 (Fire Department)

Exhibit 2: Award Letter and Sub-grantee Agreement from AZDOHS for TLO Grant 150814-01 (Fire Department)

Contact Name and Number: Jennifer Felton, 623-773-7915

SUBRECIPIENT AGREEMENT

15-AZDOHS-HSGP-_____

Enter Subrecipient Agreement Number Above (e.g., 150xxx-xx)

Between

The Arizona Department of Homeland Security
And

Enter the Name of the Subrecipient Agency Above

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Subrecipient Agreement.

I. **PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

II. **TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on **October 1, 2015** and shall terminate on **September 30, 2016**. The obligations of the subrecipient as described herein will survive termination of this agreement.

III. **DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

“ _____ ”

Enter Title of Application Above

and funded at \$ _____ (as may have been modified by the award letter).

Enter Funded Amount Above

IV. **MANNER OF FINANCING**

The AZDOHS shall under the U.S. Department of Homeland Security grant #EMW-2015-SS-00084-S01 and CFDA #97.067:

a) Provide up to \$ _____ to the subrecipient for services provided under Paragraph III. Enter Funded Amount Above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

V. FISCAL RESPONSIBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application. Any modification to quantity or scope of work must be preapproved in writing by the AZDOHS. Therefore, should the project not be completed, the subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the subrecipient shall be for only the amount of dollars actually spent by the subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

- a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) if the subrecipient expends more than \$750,000 from Federal awards. If the subrecipient has expended more than \$750,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year and subsequent years within the period of performance is due annually to AZDOHS within nine (9) months of the subrecipient's fiscal year end.
- b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, equipment, performance, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the Notice of Funding Opportunity (NOFO) Office of Management and Budget Code of Federal Regulations (CFR) 2 CFR 200: Uniform Guidance. The NOFO for this program is hereby incorporated into your award agreement by reference. By accepting this award, the subrecipient agrees that all allocation and use of funds under this grant will be in accordance with the requirements contained in the NOFO.

Where applicable and with prior written approval from AZDOHS/DHS/FEMA, HSGP Program recipients using funds for construction projects must comply with the *Davis-Bacon Act* (40 U.S.C. 3141 *et seq.*). Recipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the *Davis-Bacon Act*, including Department of Labor (DOL) wage determinations, is available from the following website

<http://www.dol.gov/compliance/laws/comp-dbra.htm>.

Included within the above mentioned guidance documents are provisions for the following:

National Incident Management System (NIMS)

The subrecipient agrees to remain in compliance with National Incident Management System (NIMS) implementation initiatives as outlined in the applicable Notice of Funding Opportunity (NOFO).

Environmental Planning and Historic Preservation

The subrecipient shall comply with Federal EHP regulations, laws and Executive Orders as applicable. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the DHS/FEMA EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. DHS/FEMA will not fund projects that are initiated without the required EHP review.

Additionally, all recipients are required to comply with DHS/FEMA EHP Policy Guidance. This EHP Policy Guidance can be found in FP 108-023-1, Environmental Planning and Historic Preservation Policy Guidance, and FP 108.24.4, Environmental Planning and Historical Preservation Policy.

Consultants/Trainers/Training Providers

Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 2 CFR 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day \$450 maximum amount, the consultant/trainer/training provider may be reimbursed reasonable travel, lodging, and per diem not to exceed the State rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

Contractors/Subcontractors

The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in 2 CFR 200 and the NOFO. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which, in the opinion of the subrecipient, may result in litigation related in any way to the Agreement with the AZDOHS.

Personnel and Travel Costs

All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures; and the State of Arizona Accounting Manual (SAAM); must be applied uniformly to both federally financed and other activities of the agency; and will be reimbursed at the most restrictive allowability and rate. At no time will the subrecipient's

reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: <https://gao.az.gov>.

Procurement

The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Noncompetitive (Sole or Single Source) Procurement Agreement, unless prior written approval is granted by the AZDOHS. The Noncompetitive Procurement Request Form and instructions are located on the AZDOHS website: www.azdohs.gov/grants/.

Training and Exercise

The subrecipient agrees that any grant funds used for training and exercise must be in compliance with the applicable NOFO. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) guidance for exercise design, development, conduct, evaluation and reporting. Subrecipient agrees to:

- a) Submit an exercise summary and attendance/sign-in roster to AZDOHS with all exercise reimbursement requests.
- b) Within 90 days of completion of an exercise, or as prescribed by the most current HSEEP guidance, the exercise host subrecipient is required to email the After Action Report/Improvement Plan (AAR/IP) to the local County Emergency Manager, the AZDOHS Strategic Planner, and the Arizona Division of Emergency Management (ADEM) Exercise Branch.

Nonsupplanting Agreement

The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

E-Verify

Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

- a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).
- b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.
- c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

Property Control

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used for authorized purposes as described in the NOFO, grant application, and Code of Federal Regulations 2 CFR 200. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

- a) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Subrecipient is required to maintain and utilize equipment as outlined in 2 CFR 200.313 - Equipment. Any loss, damage, or theft shall be investigated and reported to the AZDOHS.
- b) Nonexpendable Property and Capital Assets:
 1. Nonexpendable Property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of \$5,000 (Five Thousand Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or systems.
 2. A Capital Asset is any personal or real property, or fixture that has an acquisition cost of \$5,000 (Five Thousand Dollars) or more per unit and a useful life of more than one year.
- c) A Property Control Form (if applicable) shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. All Nonexpendable Property and Capital Assets must be included on the Property Control Form. The subrecipient shall provide AZDOHS a copy of the Property Control Form with the final quarterly programmatic report. A Property Control Form can be located at www.azdohs.gov/Grants/. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.
- d) A physical inventory of Nonexpendable Property and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.
 1. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and reported to AZDOHS.
 2. Adequate maintenance procedures must be developed to keep the property in good condition.
- e) When Nonexpendable Property and/or Capital Assets are no longer in operational use by the subrecipient, an updated Property Control Form must be submitted to AZDOHS immediately. The disposition of equipment shall be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200. If the subrecipient is requesting disposition of Capital Assets for reasons other than theft, destruction, or loss, the subgrantee must submit an Equipment Disposition Request Form and receive approval prior to the disposition. The Equipment Disposition Request Form can be found at www.azdohs.gov/Grants/.

Allowable Costs

The allowability of costs incurred under this agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulations, authorized equipment lists, and guidance documents referenced above.

- a) The subrecipient agrees that grant funds for any indirect costs that may be incurred are in accordance with 2 CFR 200 and the NOFO.
- b) The subrecipient agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with the applicable NOFO.

VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.” All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the Federal government.

IX. FUNDS MANAGEMENT

The subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. The subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits. The subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

- a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report form, which is posted at www.azdohs.gov/Grants/. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed.
- b) Quarterly Programmatic Reports are due:
January 15 (for the period from October 1– December 31)
April 15 (for the period from January 1 – March 31)
July 15 (for the period from April 1 – June 30)
October 15 (for the period from July 1 – September 30)
- c) Final Quarterly Report:
The final quarterly report is due no more than fifteen (15) days after the end of the performance period. Subrecipients may submit a final quarterly report prior to the end of the

performance period if the scope of the project has been fully completed and implemented. The Property Control Form is due with the final quarterly report (if applicable).

- d) Property Control Form – if applicable:
The subrecipient shall provide the AZDOHS a copy of the Property Control Form with the final quarterly report.
 - a. In case of equipment disposition:
The Property Control Form shall be updated and a copy provided to AZDOHS no more than forty-five (45) calendar days after equipment disposition, if applicable. The disposition of equipment must be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200.313.

e) Financial Reimbursements

The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursement requests are only required when expenses have been incurred. Reimbursement requests shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement request for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) calendar days** after the end of the Agreement. Requests for reimbursement received later than forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc. or in person. Reimbursement requests submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation it feels necessary in order to process reimbursements.

All reports shall be submitted to the contact person as described in Paragraph XL, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The subrecipient may not assign any rights hereunder without the express, prior written consent of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS. The AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the subrecipient's compensation if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding paragraph. The subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. US DEPARTMENT OF HOMELAND SECURITY AGREEMENT ARTICLES

Article A – Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award.

Article B - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 CFR § 200.313.

Article C - DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree—and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

The United States has the right to seek judicial enforcement of these obligations.

Article D - Use of DHS Seal, Logo and Flags

All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article E - USA Patriot Act of 2001

All recipients must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

Article F - Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007.

In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient —

1. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procures a commercial sex act during the period of time that the award is in effect; or
3. Uses forced labor in the performance of the award or subawards under the award.

Full text of the award term is provided at 2 CFR § 175.15.

Article G - Non-supplanting Requirement

All recipients must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

Article H - Lobbying Prohibitions

All recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

Article I - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. §2225(a), all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. §2225.

Article J - Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. §41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative

guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Article K - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

Article L - False Claims Act and Program Fraud Civil Remedies

All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

Article M - Duplication of Benefits

State, Local and Tribal recipients must comply with 2 CFR Part §225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority may not be charged to other Federal awards to overcome fund deficiencies.

Article N - Drug-Free Workplace Regulations

All recipients must comply with the Drug-Free Workplace Act of 1988 (412 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. These regulations are codified at 2 CFR 3001.

Article O - Copyright

All recipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

Article P - Best Practices for Collection and Use of Personally Identifiable Information (PII)

All award recipients who collect PII are required to have a publicly-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments guidance and template located at: http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively.

Article Q - Activities Conducted Abroad

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article R - Acknowledgement of Federal Funding from DHS

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article S - Assurances, Administrative Requirements and Cost Principles

Recipients of DHS federal financial assistance must complete OMB Standard Form [424B Assurances – Non-Construction Programs](#). Certain assurances in this document may not be

applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions. The administrative and audit requirements and cost principles that apply to DHS award recipients originate from [2 CFR Part 200](#), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as adopted by DHS at 2 CFR Part 3002.

Article T - Age Discrimination Act of 1975

All recipients must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article U - Americans with Disabilities Act of 1990

All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101–12213).

Article V - Title VI of the Civil Rights Act of 1964

All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article W- Civil Rights Act of 1968

All recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 CFR § 100.201).

Article X - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, *DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance

<https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-accesspeople-limited> and additional resources on <http://www.lep.gov>.

Article Y - SAFECOM

Recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article Z - Title IX of the Education Amendments of 1975 (Equal Opportunity in Education Act)

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

Article AA - Rehabilitation Act of 1973

All recipients of must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article AB - Energy Policy and Conservation Act

All recipients must comply with the requirements of [42 U.S.C. § 6201](#) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with this Act.

Article AC - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in [37 CFR Part 401](#) and the standard patent rights clause in 37 CFR § 401.14.

Article AD- Procurement of Recovered Materials

All recipients must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Article AE - Contract Provisions for Non-federal Entity Contracts under Federal Awards

a) Contracts for more than the simplified acquisition threshold set at \$150,000.

All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by [41 U.S.C. §1908](#),

must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

b) Contracts in excess of \$10,000.

All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Article AF - Terrorist Financing E.O. 13224

All recipients must comply with [U.S. Executive Order 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

Article AG - Whistleblower Protection Act

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

XIV. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

XV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XVI. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the subrecipient give a written assurance of intent to perform. If the subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVII. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVIII. THIRD PARTY ANTITRUST VIOLATIONS

The subrecipient assigns the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to subrecipient toward fulfillment of this Agreement.

XIX. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate

this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the subrecipient in the execution of this Agreement.

XX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XXI. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXII. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION

- a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.
- b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.
- c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIV. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS. The subrecipient agrees to comply with any such amendment within ten (10) business days of receipt of a fully executed amendment. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXV. RESTRICTIONS ON LOBBYING

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

XXVI. LICENSING

The subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVII. NON-DISCRIMINATION

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order 2009-09.

XXVIII. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXIX. SEVERABILITY

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

XXX. ADVERTISING AND PROMOTION OF AGREEMENT

The subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the AZDOHS.

XXXI. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential subrecipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

XXXII. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the subrecipient shall include closed captioning of the verbal content of such announcement.

XXXIII. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, (State Agency) is self-insured per A.R.S. 41-621.

In addition, should subrecipient utilize a contractor(s) and subcontractor(s), the indemnification clause between subrecipient and contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the (insert name of other governmental entity) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

XXXIV. TERMINATION

- a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the subrecipient or the grantor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses, and permits or to make satisfactory progress in performing the Agreement. The staff of either party shall provide a written thirty (30) day advance notice of the termination and the reasons for it.
- b) If the subrecipient chooses to terminate the contract before the grant deliverables have been met then the AZDOHS reserves the right to collect all reimbursements distributed to the subrecipient.
- c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the subrecipient.

XXXV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXVI. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXVII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

XXXVIII. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the subrecipient represents and warrants that he or she is duly authorized to execute this Agreement.

XXXIX. SPECIAL CONDITIONS

- a) The subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements
- b) The subrecipient acknowledges that the U.S. Department of Homeland Security and the AZDOHS reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
- c) The subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
- d) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Operation Stonegarden).

XL. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing, be delivered in person, or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington Street, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic and reimbursement notices relative to this Agreement to the appropriate AZDOHS staff; contact information at www.azdohs.gov.

The AZDOHS shall address all notices relative to this Agreement to:

Enter Title, First & Last Name Above

Enter Agency Name Above

Enter Street Address Above

Enter City, State, ZIP Above

XLI. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Enter Agency Name Above

Authorized Signature Above

Print Name & Title Above

Enter Date Above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

(Complete and mail two original documents to the Arizona Department of Homeland Security.)

SUBRECIPIENT AGREEMENT

15-AZDOHS-HSGP-_____

Enter Subrecipient Agreement Number Above (e.g., 150xxx-xx)

Between

The Arizona Department of Homeland Security
And

Enter the Name of the Subrecipient Agency Above

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Subrecipient Agreement.

I. **PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

II. **TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on **October 1, 2015** and shall terminate on **September 30, 2016**. The obligations of the subrecipient as described herein will survive termination of this agreement.

III. **DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

“ _____ ”

Enter Title of Application Above

and funded at \$ _____ (as may have been modified by the award letter).

Enter Funded Amount Above

IV. **MANNER OF FINANCING**

The AZDOHS shall under the U.S. Department of Homeland Security grant #EMW-2015-SS-00084-S01 and CFDA #97.067:

a) Provide up to \$ _____ to the subrecipient for services provided under Paragraph III. Enter Funded Amount Above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

V. FISCAL RESPONSIBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application. Any modification to quantity or scope of work must be preapproved in writing by the AZDOHS. Therefore, should the project not be completed, the subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the subrecipient shall be for only the amount of dollars actually spent by the subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

- a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) if the subrecipient expends more than \$750,000 from Federal awards. If the subrecipient has expended more than \$750,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year and subsequent years within the period of performance is due annually to AZDOHS within nine (9) months of the subrecipient's fiscal year end.
- b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, equipment, performance, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the Notice of Funding Opportunity (NOFO) Office of Management and Budget Code of Federal Regulations (CFR) 2 CFR 200: Uniform Guidance. The NOFO for this program is hereby incorporated into your award agreement by reference. By accepting this award, the subrecipient agrees that all allocation and use of funds under this grant will be in accordance with the requirements contained in the NOFO.

Where applicable and with prior written approval from AZDOHS/DHS/FEMA, HSGP Program recipients using funds for construction projects must comply with the *Davis-Bacon Act* (40 U.S.C. 3141 *et seq.*). Recipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the *Davis-Bacon Act*, including Department of Labor (DOL) wage determinations, is available from the following website

<http://www.dol.gov/compliance/laws/comp-dbra.htm>.

Included within the above mentioned guidance documents are provisions for the following:

National Incident Management System (NIMS)

The subrecipient agrees to remain in compliance with National Incident Management System (NIMS) implementation initiatives as outlined in the applicable Notice of Funding Opportunity (NOFO).

Environmental Planning and Historic Preservation

The subrecipient shall comply with Federal EHP regulations, laws and Executive Orders as applicable. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the DHS/FEMA EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. DHS/FEMA will not fund projects that are initiated without the required EHP review.

Additionally, all recipients are required to comply with DHS/FEMA EHP Policy Guidance. This EHP Policy Guidance can be found in FP 108-023-1, Environmental Planning and Historic Preservation Policy Guidance, and FP 108.24.4, Environmental Planning and Historical Preservation Policy.

Consultants/Trainers/Training Providers

Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 2 CFR 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day \$450 maximum amount, the consultant/trainer/training provider may be reimbursed reasonable travel, lodging, and per diem not to exceed the State rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

Contractors/Subcontractors

The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in 2 CFR 200 and the NOFO. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which, in the opinion of the subrecipient, may result in litigation related in any way to the Agreement with the AZDOHS.

Personnel and Travel Costs

All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures; and the State of Arizona Accounting Manual (SAAM); must be applied uniformly to both federally financed and other activities of the agency; and will be reimbursed at the most restrictive allowability and rate. At no time will the subrecipient's

reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: <https://gao.az.gov>.

Procurement

The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Noncompetitive (Sole or Single Source) Procurement Agreement, unless prior written approval is granted by the AZDOHS. The Noncompetitive Procurement Request Form and instructions are located on the AZDOHS website: www.azdohs.gov/grants/.

Training and Exercise

The subrecipient agrees that any grant funds used for training and exercise must be in compliance with the applicable NOFO. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) guidance for exercise design, development, conduct, evaluation and reporting. Subrecipient agrees to:

- a) Submit an exercise summary and attendance/sign-in roster to AZDOHS with all exercise reimbursement requests.
- b) Within 90 days of completion of an exercise, or as prescribed by the most current HSEEP guidance, the exercise host subrecipient is required to email the After Action Report/Improvement Plan (AAR/IP) to the local County Emergency Manager, the AZDOHS Strategic Planner, and the Arizona Division of Emergency Management (ADEM) Exercise Branch.

Nonsupplanting Agreement

The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

E-Verify

Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

- a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).
- b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.
- c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

Property Control

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used for authorized purposes as described in the NOFO, grant application, and Code of Federal Regulations 2 CFR 200. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

- a) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Subrecipient is required to maintain and utilize equipment as outlined in 2 CFR 200.313 - Equipment. Any loss, damage, or theft shall be investigated and reported to the AZDOHS.
- b) Nonexpendable Property and Capital Assets:
 1. Nonexpendable Property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of \$5,000 (Five Thousand Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or systems.
 2. A Capital Asset is any personal or real property, or fixture that has an acquisition cost of \$5,000 (Five Thousand Dollars) or more per unit and a useful life of more than one year.
- c) A Property Control Form (if applicable) shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. All Nonexpendable Property and Capital Assets must be included on the Property Control Form. The subrecipient shall provide AZDOHS a copy of the Property Control Form with the final quarterly programmatic report. A Property Control Form can be located at www.azdohs.gov/Grants/. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.
- d) A physical inventory of Nonexpendable Property and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.
 1. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and reported to AZDOHS.
 2. Adequate maintenance procedures must be developed to keep the property in good condition.
- e) When Nonexpendable Property and/or Capital Assets are no longer in operational use by the subrecipient, an updated Property Control Form must be submitted to AZDOHS immediately. The disposition of equipment shall be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200. If the subrecipient is requesting disposition of Capital Assets for reasons other than theft, destruction, or loss, the subgrantee must submit an Equipment Disposition Request Form and receive approval prior to the disposition. The Equipment Disposition Request Form can be found at www.azdohs.gov/Grants/.

Allowable Costs

The allowability of costs incurred under this agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulations, authorized equipment lists, and guidance documents referenced above.

- a) The subrecipient agrees that grant funds for any indirect costs that may be incurred are in accordance with 2 CFR 200 and the NOFO.
- b) The subrecipient agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with the applicable NOFO.

VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.” All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the Federal government.

IX. FUNDS MANAGEMENT

The subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. The subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits. The subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

- a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report form, which is posted at www.azdohs.gov/Grants/. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed.
- b) Quarterly Programmatic Reports are due:
January 15 (for the period from October 1– December 31)
April 15 (for the period from January 1 – March 31)
July 15 (for the period from April 1 – June 30)
October 15 (for the period from July 1 – September 30)
- c) Final Quarterly Report:
The final quarterly report is due no more than fifteen (15) days after the end of the performance period. Subrecipients may submit a final quarterly report prior to the end of the

performance period if the scope of the project has been fully completed and implemented. The Property Control Form is due with the final quarterly report (if applicable).

- d) Property Control Form – if applicable:
The subrecipient shall provide the AZDOHS a copy of the Property Control Form with the final quarterly report.
 - a. In case of equipment disposition:
The Property Control Form shall be updated and a copy provided to AZDOHS no more than forty-five (45) calendar days after equipment disposition, if applicable. The disposition of equipment must be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200.313.

e) Financial Reimbursements

The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursement requests are only required when expenses have been incurred. Reimbursement requests shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement request for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) calendar days** after the end of the Agreement. Requests for reimbursement received later than forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc. or in person. Reimbursement requests submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation it feels necessary in order to process reimbursements.

All reports shall be submitted to the contact person as described in Paragraph XL, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The subrecipient may not assign any rights hereunder without the express, prior written consent of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS. The AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the subrecipient's compensation if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding paragraph. The subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. US DEPARTMENT OF HOMELAND SECURITY AGREEMENT ARTICLES

Article A – Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award.

Article B - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 CFR § 200.313.

Article C - DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree—and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

The United States has the right to seek judicial enforcement of these obligations.

Article D - Use of DHS Seal, Logo and Flags

All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article E - USA Patriot Act of 2001

All recipients must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

Article F - Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007.

In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient —

1. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procures a commercial sex act during the period of time that the award is in effect; or
3. Uses forced labor in the performance of the award or subawards under the award.

Full text of the award term is provided at 2 CFR § 175.15.

Article G - Non-supplanting Requirement

All recipients must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

Article H - Lobbying Prohibitions

All recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

Article I - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. §2225(a), all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. §2225.

Article J - Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. §41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative

guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Article K - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

Article L - False Claims Act and Program Fraud Civil Remedies

All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

Article M - Duplication of Benefits

State, Local and Tribal recipients must comply with 2 CFR Part §225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority may not be charged to other Federal awards to overcome fund deficiencies.

Article N - Drug-Free Workplace Regulations

All recipients must comply with the Drug-Free Workplace Act of 1988 (412 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. These regulations are codified at 2 CFR 3001.

Article O - Copyright

All recipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

Article P - Best Practices for Collection and Use of Personally Identifiable Information (PII)

All award recipients who collect PII are required to have a publicly-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments guidance and template located at: http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively.

Article Q - Activities Conducted Abroad

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article R - Acknowledgement of Federal Funding from DHS

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article S - Assurances, Administrative Requirements and Cost Principles

Recipients of DHS federal financial assistance must complete OMB Standard Form [424B Assurances – Non-Construction Programs](#). Certain assurances in this document may not be

applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions. The administrative and audit requirements and cost principles that apply to DHS award recipients originate from [2 CFR Part 200](#), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as adopted by DHS at 2 CFR Part 3002.

Article T - Age Discrimination Act of 1975

All recipients must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article U - Americans with Disabilities Act of 1990

All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101–12213).

Article V - Title VI of the Civil Rights Act of 1964

All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article W- Civil Rights Act of 1968

All recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 CFR § 100.201).

Article X - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, *DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance

<https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-accesspeople-limited> and additional resources on <http://www.lep.gov>.

Article Y - SAFECOM

Recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article Z - Title IX of the Education Amendments of 1975 (Equal Opportunity in Education Act)

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

Article AA - Rehabilitation Act of 1973

All recipients of must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article AB - Energy Policy and Conservation Act

All recipients must comply with the requirements of [42 U.S.C. § 6201](#) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with this Act.

Article AC - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in [37 CFR Part 401](#) and the standard patent rights clause in 37 CFR § 401.14.

Article AD- Procurement of Recovered Materials

All recipients must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Article AE - Contract Provisions for Non-federal Entity Contracts under Federal Awards

- a) Contracts for more than the simplified acquisition threshold set at \$150,000.
All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by [41 U.S.C. §1908](#),

must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

b) Contracts in excess of \$10,000.

All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Article AF - Terrorist Financing E.O. 13224

All recipients must comply with [U.S. Executive Order 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

Article AG - Whistleblower Protection Act

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

XIV. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

XV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XVI. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the subrecipient give a written assurance of intent to perform. If the subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVII. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVIII. THIRD PARTY ANTITRUST VIOLATIONS

The subrecipient assigns the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to subrecipient toward fulfillment of this Agreement.

XIX. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate

this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the subrecipient in the execution of this Agreement.

XX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XXI. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXII. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION

- a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.
- b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.
- c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIV. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS. The subrecipient agrees to comply with any such amendment within ten (10) business days of receipt of a fully executed amendment. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXV. RESTRICTIONS ON LOBBYING

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

XXVI. LICENSING

The subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVII. NON-DISCRIMINATION

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order 2009-09.

XXVIII. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXIX. SEVERABILITY

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

XXX. ADVERTISING AND PROMOTION OF AGREEMENT

The subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the AZDOHS.

XXXI. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential subrecipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

XXXII. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the subrecipient shall include closed captioning of the verbal content of such announcement.

XXXIII. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, (State Agency) is self-insured per A.R.S. 41-621.

In addition, should subrecipient utilize a contractor(s) and subcontractor(s), the indemnification clause between subrecipient and contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the (insert name of other governmental entity) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

XXXIV. TERMINATION

- a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the subrecipient or the grantor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses, and permits or to make satisfactory progress in performing the Agreement. The staff of either party shall provide a written thirty (30) day advance notice of the termination and the reasons for it.
- b) If the subrecipient chooses to terminate the contract before the grant deliverables have been met then the AZDOHS reserves the right to collect all reimbursements distributed to the subrecipient.
- c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the subrecipient.

XXXV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXVI. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXVII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

XXXVIII. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the subrecipient represents and warrants that he or she is duly authorized to execute this Agreement.

XXXIX. SPECIAL CONDITIONS

- a) The subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements
- b) The subrecipient acknowledges that the U.S. Department of Homeland Security and the AZDOHS reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
- c) The subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
- d) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Operation Stonegarden).

XL. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing, be delivered in person, or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington Street, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic and reimbursement notices relative to this Agreement to the appropriate AZDOHS staff; contact information at www.azdohs.gov.

The AZDOHS shall address all notices relative to this Agreement to:

Enter Title, First & Last Name Above

Enter Agency Name Above

Enter Street Address Above

Enter City, State, ZIP Above

XLI. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Enter Agency Name Above

Authorized Signature Above

Print Name & Title Above

Enter Date Above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

(Complete and mail two original documents to the Arizona Department of Homeland Security.)

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 10C

Date Prepared: September 16, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

THROUGH: Jeff Tyne, Deputy City Manager

FROM: Roy W. Minter, Jr., Chief of Police

SUBJECT: Grant Funding from the Arizona Department of Homeland Security

Purpose:

This is a request for City Council to authorize the Peoria Police Department to accept two grants from the Arizona Department of Homeland Security totaling \$107,190.

Background/Summary:

In order to further integrate Peoria as part of the statewide disaster response program, the Police Department has received 2015 Homeland Security Grant funds from the Arizona Department of Homeland Security (AZDOHS) in the amount of \$107,190 to 1) strengthen chemical, biological, radiological, nuclear or explosive (CBRNE) weapon detection, response and decontamination capabilities; and 2) sustain and enhance the Terrorism Liaison Officer (TLO) program.

The Police Department received \$50,000 to enhance the functionality of the Peoria Special Weapons and Tactics (SWAT) team CBRNE response. Funds granted will be used to purchase protective safety apparel and provide training to CBRNE operators.

The Police Department received \$57,190 to support TLO operations. The TLO program functions as a Field Intelligence Unit in support of police tactical, hazardous material, explosive special operations and uncommon event types. Funds granted will be used to purchase a vehicle and supplies to provide comprehensive coverage by the TLO response unit and provide necessary training.

These grants are reimbursable with funding through September 2016.

Previous Actions:

City Council has previously accepted grants from AZDOHS. This will be the ninth consecutive year that the City of Peoria has received grant funding from this organization.

Options:

A: Accept two grant awards in the amount of \$107,190 from the Arizona Department of Homeland Security and approve a budget adjustment in the amount of \$107,190 from the Proposed Grants Contingency Account to the Homeland Security Fund, thus providing expenditure authority.

B: Choose not to accept the grants from the Arizona Department of Homeland Security.

Staff's Recommendation:

Authorize the Peoria Police Department to accept two grants totaling \$107,190 from the Arizona Department of Homeland Security and approve a budget adjustment.

Fiscal Analysis:

Request a budget adjustment of \$107,190 from the Proposed Grants Contingency account (7990-7990-570000) to the Homeland Security Grant Fund (7545-7795-various accounts) thus providing expenditure authority.

Account #	Description	Amount	Program
7545-7795-530019	Operational Supplies/Equipment	\$ 38,500	CBRNE and TLO
7545-7795-520510	Overnight Travel/Training	\$ 18,140	CBRNE and TLO
7545-7795-542502	Trucks and Vans	\$ 48,000	TLO
7545-7795-523510	Telecommunication Svcs	\$ 1,950	TLO
7545-7795-530016	Office Equipment	\$ 600	TLO
Total		\$107,190	

Narrative:

Once approved by City Council, the grant contracts will be executed as needed.

Exhibit(s):

Exhibit 1: Award Letter and Subrecipient Agreement from AZDOHS for CBRNE Grant 150815-02

Exhibit 2: Award Letter and Subrecipient Agreement from AZDOHS for TLO Grant 150815-01

Contact Name and Number: Jennifer Loper, 623-773-7072



State of Arizona Department of Homeland Security



Governor Douglas A. Ducey

Director Gilbert M. Orrantia

September 11, 2015

Chief Roy Minter
Peoria Police Department
8351 W. Cinnabar Ave
Peoria, AZ 85345-2701

Subject: FFY 2015 Homeland Security Grant Program Award
Subrecipient Agreement Number: **150815-02**
Project Title: **Phoenix Urban Area CBRNE Response for Law Enforcement**

Dear Chief Roy Minter:

The application that your agency submitted to the Arizona Department of Homeland Security (AZDOHS) for consideration under the Homeland Security Grant Program has been awarded. The project titled "**Phoenix Urban Area CBRNE Response for Law Enforcement**" has been fully funded under the URBAN AREA SECURITY INITIATIVE for **\$50,000**. The grant performance period is **October 1, 2015 through September 30, 2016**. This grant program is part of the U.S. Department of Homeland Security Grant Program and specifically is awarded under CFDA #97.067 (Catalog of Federal Domestic Assistance).

To initiate the award process, the following action items must be completed, signed and returned to AZDOHS:

1. Project Administration Page (enclosed).
2. Environmental and Historic Preservation (EHP) required documentation, if applicable (see enclosed EHP Designation Letter).
3. Two Subrecipient Agreements - go to www.azdohs.gov under Grants and download two original Subrecipient Agreements.
4. NIMS Compliance Certification - go to www.azdohs.gov under Grants and download one original certification.

Hard copies of the Subrecipient Agreement and NIMS Compliance Certification will **not** be mailed to you. These items must be completed and on file at AZDOHS in order for your agency to be eligible for reimbursement. **If all documentation listed in numbers 1, 2 (if applicable), 3 and 4 above is not signed and received by AZDOHS on or before January 31, 2016, this award is rescinded and the funds will be reallocated.**

Additional grant requirements:

- Reimbursements are limited to approved quantities and funding thresholds.
- If your project requires an Environmental and Historic Preservation (EHP) review; this must be completed, submitted and **approved** by FEMA/AZDOHS prior to any expenditure of funds.
- All radio equipment purchased with Homeland Security funds should be P25 capable, comply with SAFECOM Guidance, and the Land Mobile Radio Minimum Equipment Standards as approved by the Statewide Interoperability Executive Committee (SIEC), and be programmed in accordance with the Arizona State Interoperable Priority Programming Guide.
- Subrecipients are subject to the AZDOHS Site Monitoring Program.
- Quarterly programmatic reports must be submitted on the most recent form/template available on the AZDOHS website.
- Consultants/Trainers/Training Providers costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 2 CFR 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted

by the AZDOHS.

- Terrorism Liaison Officer (TLO) Chemical, Biological, Radiological, Nuclear and Explosive (CBRNE) Response Vehicles purchased with Department of Homeland Security Grant Program funding must be assigned to and used by certified TLOs working with the Arizona Counter Terrorism Information Center (ACTIC).
 - Persons receiving TLO vehicles shall be available to respond to incidents and events on a "call out" basis and shall be available for regional and statewide deployment for TLO operations and training.
 - TLO equipment and/or services purchased or maintained with Department of Homeland Security Grant Program funding will be assigned to and used by certified TLOs working with the ACTIC TLO Program. This equipment may include: radios, computers, cell phones, cellular and satellite service fees, open source data services, cameras, GPS devices and any other equipment needed to complete the TLO mission.
- All reimbursements for personnel costs must be in compliance with AZDOHS Time and Effort Reporting requirements available on the AZDOHS website.
- Subrecipients are either required to submit an electronic copy of their annual A133 Audit or a statement stating that they were not required to complete an audit to AZDOHS each year to audits@azdohs.gov. The AZDOHS reserves the right to withhold reimbursement payments or future subrecipient agreements until the A133 Audit or statement has been received and, if applicable, an approved action plan for compliance has been completed.
- The FFY 2015 federal award date as indicated in the U.S. DHS award package is 8/10/2015 with a total amount of funding of \$21,768,000. The Federal Award Identification Number is EMW-2015-SS-00084-S01.
- AZDOHS reserves the right to request additional documentation at any time.

If you should have any questions, please do not hesitate to contact your Strategic Planner.

Congratulations on your Homeland Security Grant Program award.

Sincerely,


Gilbert M. Orrantia
Director

Cc: Lieutenant Greg Larson

Attachments: Project Administration Page, Application Summary Page, Budget Narrative page(s), EHP Designation Letter

SUBRECIPIENT AGREEMENT

15-AZDOHS-HSGP-_____

Enter Subrecipient Agreement Number Above (e.g., 150xxx-xx)

Between

The Arizona Department of Homeland Security
And

Enter the Name of the Subrecipient Agency Above

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Subrecipient Agreement.

I. **PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

II. **TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on **October 1, 2015** and shall terminate on **September 30, 2016**. The obligations of the subrecipient as described herein will survive termination of this agreement.

III. **DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

“ _____ ”

Enter Title of Application Above

and funded at \$ _____ (as may have been modified by the award letter).

Enter Funded Amount Above

IV. **MANNER OF FINANCING**

The AZDOHS shall under the U.S. Department of Homeland Security grant #EMW-2015-SS-00084-S01 and CFDA #97.067:

a) Provide up to \$ _____ to the subrecipient for services provided under Paragraph III. Enter Funded Amount Above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

V. FISCAL RESPONSIBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application. Any modification to quantity or scope of work must be preapproved in writing by the AZDOHS. Therefore, should the project not be completed, the subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the subrecipient shall be for only the amount of dollars actually spent by the subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

- a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) if the subrecipient expends more than \$750,000 from Federal awards. If the subrecipient has expended more than \$750,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year and subsequent years within the period of performance is due annually to AZDOHS within nine (9) months of the subrecipient's fiscal year end.
- b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, equipment, performance, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the Notice of Funding Opportunity (NOFO) Office of Management and Budget Code of Federal Regulations (CFR) 2 CFR 200: Uniform Guidance. The NOFO for this program is hereby incorporated into your award agreement by reference. By accepting this award, the subrecipient agrees that all allocation and use of funds under this grant will be in accordance with the requirements contained in the NOFO.

Where applicable and with prior written approval from AZDOHS/DHS/FEMA, HSGP Program recipients using funds for construction projects must comply with the *Davis-Bacon Act* (40 U.S.C. 3141 *et seq.*). Recipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the *Davis-Bacon Act*, including Department of Labor (DOL) wage determinations, is available from the following website

<http://www.dol.gov/compliance/laws/comp-dbra.htm>.

Included within the above mentioned guidance documents are provisions for the following:

National Incident Management System (NIMS)

The subrecipient agrees to remain in compliance with National Incident Management System (NIMS) implementation initiatives as outlined in the applicable Notice of Funding Opportunity (NOFO).

Environmental Planning and Historic Preservation

The subrecipient shall comply with Federal EHP regulations, laws and Executive Orders as applicable. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the DHS/FEMA EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. DHS/FEMA will not fund projects that are initiated without the required EHP review.

Additionally, all recipients are required to comply with DHS/FEMA EHP Policy Guidance. This EHP Policy Guidance can be found in FP 108-023-1, Environmental Planning and Historic Preservation Policy Guidance, and FP 108.24.4, Environmental Planning and Historical Preservation Policy.

Consultants/Trainers/Training Providers

Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 2 CFR 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day \$450 maximum amount, the consultant/trainer/training provider may be reimbursed reasonable travel, lodging, and per diem not to exceed the State rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

Contractors/Subcontractors

The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in 2 CFR 200 and the NOFO. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which, in the opinion of the subrecipient, may result in litigation related in any way to the Agreement with the AZDOHS.

Personnel and Travel Costs

All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures; and the State of Arizona Accounting Manual (SAAM); must be applied uniformly to both federally financed and other activities of the agency; and will be reimbursed at the most restrictive allowability and rate. At no time will the subrecipient's

reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: <https://gao.az.gov>.

Procurement

The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Noncompetitive (Sole or Single Source) Procurement Agreement, unless prior written approval is granted by the AZDOHS. The Noncompetitive Procurement Request Form and instructions are located on the AZDOHS website: www.azdohs.gov/grants/.

Training and Exercise

The subrecipient agrees that any grant funds used for training and exercise must be in compliance with the applicable NOFO. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) guidance for exercise design, development, conduct, evaluation and reporting. Subrecipient agrees to:

- a) Submit an exercise summary and attendance/sign-in roster to AZDOHS with all exercise reimbursement requests.
- b) Within 90 days of completion of an exercise, or as prescribed by the most current HSEEP guidance, the exercise host subrecipient is required to email the After Action Report/Improvement Plan (AAR/IP) to the local County Emergency Manager, the AZDOHS Strategic Planner, and the Arizona Division of Emergency Management (ADEM) Exercise Branch.

Nonsupplanting Agreement

The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

E-Verify

Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

- a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).
- b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.
- c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

Property Control

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used for authorized purposes as described in the NOFO, grant application, and Code of Federal Regulations 2 CFR 200. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

- a) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Subrecipient is required to maintain and utilize equipment as outlined in 2 CFR 200.313 - Equipment. Any loss, damage, or theft shall be investigated and reported to the AZDOHS.
- b) Nonexpendable Property and Capital Assets:
 1. Nonexpendable Property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of \$5,000 (Five Thousand Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or systems.
 2. A Capital Asset is any personal or real property, or fixture that has an acquisition cost of \$5,000 (Five Thousand Dollars) or more per unit and a useful life of more than one year.
- c) A Property Control Form (if applicable) shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. All Nonexpendable Property and Capital Assets must be included on the Property Control Form. The subrecipient shall provide AZDOHS a copy of the Property Control Form with the final quarterly programmatic report. A Property Control Form can be located at www.azdohs.gov/Grants/. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.
- d) A physical inventory of Nonexpendable Property and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.
 1. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and reported to AZDOHS.
 2. Adequate maintenance procedures must be developed to keep the property in good condition.
- e) When Nonexpendable Property and/or Capital Assets are no longer in operational use by the subrecipient, an updated Property Control Form must be submitted to AZDOHS immediately. The disposition of equipment shall be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200. If the subrecipient is requesting disposition of Capital Assets for reasons other than theft, destruction, or loss, the subgrantee must submit an Equipment Disposition Request Form and receive approval prior to the disposition. The Equipment Disposition Request Form can be found at www.azdohs.gov/Grants/.

Allowable Costs

The allowability of costs incurred under this agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulations, authorized equipment lists, and guidance documents referenced above.

- a) The subrecipient agrees that grant funds for any indirect costs that may be incurred are in accordance with 2 CFR 200 and the NOFO.
- b) The subrecipient agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with the applicable NOFO.

VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.” All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the Federal government.

IX. FUNDS MANAGEMENT

The subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. The subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits. The subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

- a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report form, which is posted at www.azdohs.gov/Grants/. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed.
- b) Quarterly Programmatic Reports are due:
January 15 (for the period from October 1– December 31)
April 15 (for the period from January 1 – March 31)
July 15 (for the period from April 1 – June 30)
October 15 (for the period from July 1 – September 30)
- c) Final Quarterly Report:
The final quarterly report is due no more than fifteen (15) days after the end of the performance period. Subrecipients may submit a final quarterly report prior to the end of the

performance period if the scope of the project has been fully completed and implemented. The Property Control Form is due with the final quarterly report (if applicable).

- d) Property Control Form – if applicable:
The subrecipient shall provide the AZDOHS a copy of the Property Control Form with the final quarterly report.
 - a. In case of equipment disposition:
The Property Control Form shall be updated and a copy provided to AZDOHS no more than forty-five (45) calendar days after equipment disposition, if applicable. The disposition of equipment must be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200.313.

e) Financial Reimbursements

The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursement requests are only required when expenses have been incurred. Reimbursement requests shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement request for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) calendar days** after the end of the Agreement. Requests for reimbursement received later than forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc. or in person. Reimbursement requests submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation it feels necessary in order to process reimbursements.

All reports shall be submitted to the contact person as described in Paragraph XL, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The subrecipient may not assign any rights hereunder without the express, prior written consent of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS. The AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the subrecipient's compensation if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding paragraph. The subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. US DEPARTMENT OF HOMELAND SECURITY AGREEMENT ARTICLES

Article A – Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award.

Article B - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 CFR § 200.313.

Article C - DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree—and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

The United States has the right to seek judicial enforcement of these obligations.

Article D - Use of DHS Seal, Logo and Flags

All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article E - USA Patriot Act of 2001

All recipients must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

Article F - Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007.

In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient —

1. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procures a commercial sex act during the period of time that the award is in effect; or
3. Uses forced labor in the performance of the award or subawards under the award.

Full text of the award term is provided at 2 CFR § 175.15.

Article G - Non-supplanting Requirement

All recipients must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

Article H - Lobbying Prohibitions

All recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

Article I - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. §2225(a), all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. §2225.

Article J - Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. §41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative

guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Article K - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

Article L - False Claims Act and Program Fraud Civil Remedies

All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

Article M - Duplication of Benefits

State, Local and Tribal recipients must comply with 2 CFR Part §225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority may not be charged to other Federal awards to overcome fund deficiencies.

Article N - Drug-Free Workplace Regulations

All recipients must comply with the Drug-Free Workplace Act of 1988 (412 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. These regulations are codified at 2 CFR 3001.

Article O - Copyright

All recipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

Article P - Best Practices for Collection and Use of Personally Identifiable Information (PII)

All award recipients who collect PII are required to have a publicly-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments guidance and template located at: http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively.

Article Q - Activities Conducted Abroad

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article R - Acknowledgement of Federal Funding from DHS

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article S - Assurances, Administrative Requirements and Cost Principles

Recipients of DHS federal financial assistance must complete OMB Standard Form [424B Assurances – Non-Construction Programs](#). Certain assurances in this document may not be

applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions. The administrative and audit requirements and cost principles that apply to DHS award recipients originate from [2 CFR Part 200](#), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as adopted by DHS at 2 CFR Part 3002.

Article T - Age Discrimination Act of 1975

All recipients must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article U - Americans with Disabilities Act of 1990

All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101–12213).

Article V - Title VI of the Civil Rights Act of 1964

All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article W- Civil Rights Act of 1968

All recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 CFR § 100.201).

Article X - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance

<https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-accesspeople-limited> and additional resources on <http://www.lep.gov>.

Article Y - SAFECOM

Recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article Z - Title IX of the Education Amendments of 1975 (Equal Opportunity in Education Act)

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

Article AA - Rehabilitation Act of 1973

All recipients of must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article AB - Energy Policy and Conservation Act

All recipients must comply with the requirements of [42 U.S.C. § 6201](#) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with this Act.

Article AC - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in [37 CFR Part 401](#) and the standard patent rights clause in 37 CFR § 401.14.

Article AD- Procurement of Recovered Materials

All recipients must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Article AE - Contract Provisions for Non-federal Entity Contracts under Federal Awards

a) Contracts for more than the simplified acquisition threshold set at \$150,000.

All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by [41 U.S.C. §1908](#),

must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

b) Contracts in excess of \$10,000.

All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Article AF - Terrorist Financing E.O. 13224

All recipients must comply with [U.S. Executive Order 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

Article AG - Whistleblower Protection Act

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

XIV. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

XV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XVI. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the subrecipient give a written assurance of intent to perform. If the subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVII. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVIII. THIRD PARTY ANTITRUST VIOLATIONS

The subrecipient assigns the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to subrecipient toward fulfillment of this Agreement.

XIX. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate

this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the subrecipient in the execution of this Agreement.

XX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XXI. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXII. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION

- a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.
- b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.
- c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIV. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS. The subrecipient agrees to comply with any such amendment within ten (10) business days of receipt of a fully executed amendment. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXV. RESTRICTIONS ON LOBBYING

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

XXVI. LICENSING

The subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVII. NON-DISCRIMINATION

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order 2009-09.

XXVIII. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXIX. SEVERABILITY

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

XXX. ADVERTISING AND PROMOTION OF AGREEMENT

The subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the AZDOHS.

XXXI. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential subrecipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

XXXII. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the subrecipient shall include closed captioning of the verbal content of such announcement.

XXXIII. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, (State Agency) is self-insured per A.R.S. 41-621.

In addition, should subrecipient utilize a contractor(s) and subcontractor(s), the indemnification clause between subrecipient and contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the (insert name of other governmental entity) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

XXXIV. TERMINATION

- a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the subrecipient or the grantor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses, and permits or to make satisfactory progress in performing the Agreement. The staff of either party shall provide a written thirty (30) day advance notice of the termination and the reasons for it.
- b) If the subrecipient chooses to terminate the contract before the grant deliverables have been met then the AZDOHS reserves the right to collect all reimbursements distributed to the subrecipient.
- c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the subrecipient.

XXXV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXVI. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXVII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

XXXVIII. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the subrecipient represents and warrants that he or she is duly authorized to execute this Agreement.

XXXIX. SPECIAL CONDITIONS

- a) The subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements
- b) The subrecipient acknowledges that the U.S. Department of Homeland Security and the AZDOHS reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
- c) The subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
- d) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Operation Stonegarden).

XL. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing, be delivered in person, or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington Street, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic and reimbursement notices relative to this Agreement to the appropriate AZDOHS staff; contact information at www.azdohs.gov.

The AZDOHS shall address all notices relative to this Agreement to:

Enter Title, First & Last Name Above

Enter Agency Name Above

Enter Street Address Above

Enter City, State, ZIP Above

XLI. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Enter Agency Name Above

Authorized Signature Above

Print Name & Title Above

Enter Date Above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

(Complete and mail two original documents to the Arizona Department of Homeland Security.)



State of Arizona Department of Homeland Security



Governor Douglas A. Ducey

Director Gilbert M. Orrantia

September 11, 2015

Chief Roy Minter
Peoria Police Department
8351 W. Cinnabar Ave
Peoria, AZ 85345-2701

Subject: FFY 2015 Homeland Security Grant Program Award
Subrecipient Agreement Number: **150815-01**
Project Title: **TLO Sustainment**

Dear Chief Roy Minter:

The application that your agency submitted to the Arizona Department of Homeland Security (AZDOHS) for consideration under the Homeland Security Grant Program has been awarded. The project titled "**TLO Sustainment**" has been fully funded under the URBAN AREA SECURITY INITIATIVE for **\$57,190**. The grant performance period is **October 1, 2015 through September 30, 2016**. This grant program is part of the U.S. Department of Homeland Security Grant Program and specifically is awarded under CFDA #97.067 (Catalog of Federal Domestic Assistance).

To initiate the award process, the following action items must be completed, signed and returned to AZDOHS:

1. Project Administration Page (enclosed).
2. Environmental and Historic Preservation (EHP) required documentation, if applicable (see enclosed EHP Designation Letter).
3. Two Subrecipient Agreements - go to www.azdohs.gov under Grants and download two original Subrecipient Agreements.
4. NIMS Compliance Certification - go to www.azdohs.gov under Grants and download one original certification.

Hard copies of the Subrecipient Agreement and NIMS Compliance Certification will **not** be mailed to you. These items must be completed and on file at AZDOHS in order for your agency to be eligible for reimbursement. **If all documentation listed in numbers 1, 2 (if applicable), 3 and 4 above is not signed and received by AZDOHS on or before January 31, 2016, this award is rescinded and the funds will be reallocated.**

Additional grant requirements:

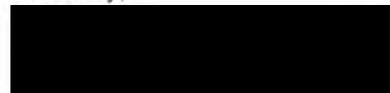
- Reimbursements are limited to approved quantities and funding thresholds.
- If your project requires an Environmental and Historic Preservation (EHP) review; this must be completed, submitted and **approved** by FEMA/AZDOHS prior to any expenditure of funds.
- All radio equipment purchased with Homeland Security funds should be P25 capable, comply with SAFECOM Guidance, and the Land Mobile Radio Minimum Equipment Standards as approved by the Statewide Interoperability Executive Committee (SIEC), and be programmed in accordance with the Arizona State Interoperable Priority Programming Guide.
- Subrecipients are subject to the AZDOHS Site Monitoring Program.
- Quarterly programmatic reports must be submitted on the most recent form/template available on the AZDOHS website.
- Consultants/Trainers/Training Providers costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 2 CFR 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS.

- Terrorism Liaison Officer (TLO) Chemical, Biological, Radiological, Nuclear and Explosive (CBRNE) Response Vehicles purchased with Department of Homeland Security Grant Program funding must be assigned to and used by certified TLOs working with the Arizona Counter Terrorism Information Center (ACTIC).
 - Persons receiving TLO vehicles shall be available to respond to incidents and events on a "call out" basis and shall be available for regional and statewide deployment for TLO operations and training.
 - TLO equipment and/or services purchased or maintained with Department of Homeland Security Grant Program funding will be assigned to and used by certified TLOs working with the ACTIC TLO Program. This equipment may include: radios, computers, cell phones, cellular and satellite service fees, open source data services, cameras, GPS devices and any other equipment needed to complete the TLO mission.
- All reimbursements for personnel costs must be in compliance with AZDOHS Time and Effort Reporting requirements available on the AZDOHS website.
- Subrecipients are either required to submit an electronic copy of their annual A133 Audit or a statement stating that they were not required to complete an audit to AZDOHS each year to audits@azdohs.gov. The AZDOHS reserves the right to withhold reimbursement payments or future subrecipient agreements until the A133 Audit or statement has been received and, if applicable, an approved action plan for compliance has been completed.
- The FFY 2015 federal award date as indicated in the U.S. DHS award package is 8/10/2015 with a total amount of funding of \$21,768,000. The Federal Award Identification Number is EMW-2015-SS-00084-S01.
- AZDOHS reserves the right to request additional documentation at any time.

If you should have any questions, please do not hesitate to contact your Strategic Planner.

Congratulations on your Homeland Security Grant Program award.

Sincerely,



Gilbert M. Orrantia
Director

Cc: Detective Michael Griffin

Attachments: Project Administration Page, Application Summary Page, Budget Narrative page(s), EHP Designation Letter

SUBRECIPIENT AGREEMENT

15-AZDOHS-HSGP-_____

Enter Subrecipient Agreement Number Above (e.g., 150xxx-xx)

Between

The Arizona Department of Homeland Security
And

Enter the Name of the Subrecipient Agency Above

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the

Enter the Name of the Subrecipient Agency Above

(subrecipient) for services under the terms of this Subrecipient Agreement.

I. **PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

II. **TERM OF AGREEMENT, TERMINATION AND AMENDMENTS**

This Agreement shall become effective on **October 1, 2015** and shall terminate on **September 30, 2016**. The obligations of the subrecipient as described herein will survive termination of this agreement.

III. **DESCRIPTION OF SERVICES**

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled

“ _____ ”

Enter Title of Application Above

and funded at \$ _____ (as may have been modified by the award letter).

Enter Funded Amount Above

IV. **MANNER OF FINANCING**

The AZDOHS shall under the U.S. Department of Homeland Security grant #EMW-2015-SS-00084-S01 and CFDA #97.067:

a) Provide up to \$ _____ to the subrecipient for services provided under Paragraph III. Enter Funded Amount Above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

V. FISCAL RESPONSIBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application. Any modification to quantity or scope of work must be preapproved in writing by the AZDOHS. Therefore, should the project not be completed, the subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the subrecipient shall be for only the amount of dollars actually spent by the subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

- a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) if the subrecipient expends more than \$750,000 from Federal awards. If the subrecipient has expended more than \$750,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year and subsequent years within the period of performance is due annually to AZDOHS within nine (9) months of the subrecipient's fiscal year end.
- b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, equipment, performance, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the Notice of Funding Opportunity (NOFO) Office of Management and Budget Code of Federal Regulations (CFR) 2 CFR 200: Uniform Guidance. The NOFO for this program is hereby incorporated into your award agreement by reference. By accepting this award, the subrecipient agrees that all allocation and use of funds under this grant will be in accordance with the requirements contained in the NOFO.

Where applicable and with prior written approval from AZDOHS/DHS/FEMA, HSGP Program recipients using funds for construction projects must comply with the *Davis-Bacon Act* (40 U.S.C. 3141 *et seq.*). Recipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the *Davis-Bacon Act*, including Department of Labor (DOL) wage determinations, is available from the following website

<http://www.dol.gov/compliance/laws/comp-dbra.htm>.

Included within the above mentioned guidance documents are provisions for the following:

National Incident Management System (NIMS)

The subrecipient agrees to remain in compliance with National Incident Management System (NIMS) implementation initiatives as outlined in the applicable Notice of Funding Opportunity (NOFO).

Environmental Planning and Historic Preservation

The subrecipient shall comply with Federal EHP regulations, laws and Executive Orders as applicable. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the DHS/FEMA EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. DHS/FEMA will not fund projects that are initiated without the required EHP review.

Additionally, all recipients are required to comply with DHS/FEMA EHP Policy Guidance. This EHP Policy Guidance can be found in FP 108-023-1, Environmental Planning and Historic Preservation Policy Guidance, and FP 108.24.4, Environmental Planning and Historical Preservation Policy.

Consultants/Trainers/Training Providers

Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 2 CFR 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day \$450 maximum amount, the consultant/trainer/training provider may be reimbursed reasonable travel, lodging, and per diem not to exceed the State rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

Contractors/Subcontractors

The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in 2 CFR 200 and the NOFO. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which, in the opinion of the subrecipient, may result in litigation related in any way to the Agreement with the AZDOHS.

Personnel and Travel Costs

All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures; and the State of Arizona Accounting Manual (SAAM); must be applied uniformly to both federally financed and other activities of the agency; and will be reimbursed at the most restrictive allowability and rate. At no time will the subrecipient's

reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: <https://gao.az.gov>.

Procurement

The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Noncompetitive (Sole or Single Source) Procurement Agreement, unless prior written approval is granted by the AZDOHS. The Noncompetitive Procurement Request Form and instructions are located on the AZDOHS website: www.azdohs.gov/grants/.

Training and Exercise

The subrecipient agrees that any grant funds used for training and exercise must be in compliance with the applicable NOFO. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) guidance for exercise design, development, conduct, evaluation and reporting. Subrecipient agrees to:

- a) Submit an exercise summary and attendance/sign-in roster to AZDOHS with all exercise reimbursement requests.
- b) Within 90 days of completion of an exercise, or as prescribed by the most current HSEEP guidance, the exercise host subrecipient is required to email the After Action Report/Improvement Plan (AAR/IP) to the local County Emergency Manager, the AZDOHS Strategic Planner, and the Arizona Division of Emergency Management (ADEM) Exercise Branch.

Nonsupplanting Agreement

The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

E-Verify

Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

- a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).
- b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.
- c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

Property Control

Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used for authorized purposes as described in the NOFO, grant application, and Code of Federal Regulations 2 CFR 200. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

- a) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Subrecipient is required to maintain and utilize equipment as outlined in 2 CFR 200.313 - Equipment. Any loss, damage, or theft shall be investigated and reported to the AZDOHS.
- b) Nonexpendable Property and Capital Assets:
 1. Nonexpendable Property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of \$5,000 (Five Thousand Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or systems.
 2. A Capital Asset is any personal or real property, or fixture that has an acquisition cost of \$5,000 (Five Thousand Dollars) or more per unit and a useful life of more than one year.
- c) A Property Control Form (if applicable) shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. All Nonexpendable Property and Capital Assets must be included on the Property Control Form. The subrecipient shall provide AZDOHS a copy of the Property Control Form with the final quarterly programmatic report. A Property Control Form can be located at www.azdohs.gov/Grants/. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.
- d) A physical inventory of Nonexpendable Property and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.
 1. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and reported to AZDOHS.
 2. Adequate maintenance procedures must be developed to keep the property in good condition.
- e) When Nonexpendable Property and/or Capital Assets are no longer in operational use by the subrecipient, an updated Property Control Form must be submitted to AZDOHS immediately. The disposition of equipment shall be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200. If the subrecipient is requesting disposition of Capital Assets for reasons other than theft, destruction, or loss, the subgrantee must submit an Equipment Disposition Request Form and receive approval prior to the disposition. The Equipment Disposition Request Form can be found at www.azdohs.gov/Grants/.

Allowable Costs

The allowability of costs incurred under this agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulations, authorized equipment lists, and guidance documents referenced above.

- a) The subrecipient agrees that grant funds for any indirect costs that may be incurred are in accordance with 2 CFR 200 and the NOFO.
- b) The subrecipient agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with the applicable NOFO.

VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.” All recipients must comply with Executive Orders 12549 and 12689, which provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the Federal government.

IX. FUNDS MANAGEMENT

The subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. The subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits. The subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

- a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report form, which is posted at www.azdohs.gov/Grants/. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed.
- b) Quarterly Programmatic Reports are due:
January 15 (for the period from October 1– December 31)
April 15 (for the period from January 1 – March 31)
July 15 (for the period from April 1 – June 30)
October 15 (for the period from July 1 – September 30)
- c) Final Quarterly Report:
The final quarterly report is due no more than fifteen (15) days after the end of the performance period. Subrecipients may submit a final quarterly report prior to the end of the

performance period if the scope of the project has been fully completed and implemented. The Property Control Form is due with the final quarterly report (if applicable).

- d) Property Control Form – if applicable:
The subrecipient shall provide the AZDOHS a copy of the Property Control Form with the final quarterly report.
 - a. In case of equipment disposition:
The Property Control Form shall be updated and a copy provided to AZDOHS no more than forty-five (45) calendar days after equipment disposition, if applicable. The disposition of equipment must be in compliance with the AZDOHS Disposition Guidance and 2 CFR 200.313.

e) Financial Reimbursements

The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursement requests are only required when expenses have been incurred. Reimbursement requests shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement request for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) calendar days** after the end of the Agreement. Requests for reimbursement received later than forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc. or in person. Reimbursement requests submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation it feels necessary in order to process reimbursements.

All reports shall be submitted to the contact person as described in Paragraph XL, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The subrecipient may not assign any rights hereunder without the express, prior written consent of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS. The AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the subrecipient's compensation if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding paragraph. The subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. US DEPARTMENT OF HOMELAND SECURITY AGREEMENT ARTICLES

Article A – Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award.

Article B - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 CFR § 200.313.

Article C - DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree—and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
2. Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
6. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

The United States has the right to seek judicial enforcement of these obligations.

Article D - Use of DHS Seal, Logo and Flags

All recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article E - USA Patriot Act of 2001

All recipients must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

Article F - Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104), located at 2 CFR Part 175. This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007.

In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient —

1. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procures a commercial sex act during the period of time that the award is in effect; or
3. Uses forced labor in the performance of the award or subawards under the award.

Full text of the award term is provided at 2 CFR § 175.15.

Article G - Non-supplanting Requirement

All recipients must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

Article H - Lobbying Prohibitions

All recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

Article I - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. §2225(a), all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. §2225.

Article J - Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. §41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative

guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Article K - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

Article L - False Claims Act and Program Fraud Civil Remedies

All recipients must comply with the requirements of 31 U.S.C. § 3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

Article M - Duplication of Benefits

State, Local and Tribal recipients must comply with 2 CFR Part §225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority may not be charged to other Federal awards to overcome fund deficiencies.

Article N - Drug-Free Workplace Regulations

All recipients must comply with the Drug-Free Workplace Act of 1988 (412 U.S.C. § 701 et seq.), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. These regulations are codified at 2 CFR 3001.

Article O - Copyright

All recipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

Article P - Best Practices for Collection and Use of Personally Identifiable Information (PII)

All award recipients who collect PII are required to have a publicly-available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments guidance and template located at:http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively.

Article Q - Activities Conducted Abroad

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article R - Acknowledgement of Federal Funding from DHS

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article S - Assurances, Administrative Requirements and Cost Principles

Recipients of DHS federal financial assistance must complete OMB Standard Form [424B Assurances – Non-Construction Programs](#). Certain assurances in this document may not be

applicable to your program, and the awarding agency may require applicants to certify additional assurances. Please contact the program awarding office if you have any questions. The administrative and audit requirements and cost principles that apply to DHS award recipients originate from [2 CFR Part 200](#), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as adopted by DHS at 2 CFR Part 3002.

Article T - Age Discrimination Act of 1975

All recipients must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article U - Americans with Disabilities Act of 1990

All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101–12213).

Article V - Title VI of the Civil Rights Act of 1964

All recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article W- Civil Rights Act of 1968

All recipients must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 CFR Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 CFR § 100.201).

Article X - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

All recipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance

<https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-accesspeople-limited> and additional resources on <http://www.lep.gov>.

Article Y - SAFECOM

Recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article Z - Title IX of the Education Amendments of 1975 (Equal Opportunity in Education Act)

All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

Article AA - Rehabilitation Act of 1973

All recipients of must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article AB - Energy Policy and Conservation Act

All recipients must comply with the requirements of [42 U.S.C. § 6201](#) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with this Act.

Article AC - Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in [37 CFR Part 401](#) and the standard patent rights clause in 37 CFR § 401.14.

Article AD- Procurement of Recovered Materials

All recipients must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Article AE - Contract Provisions for Non-federal Entity Contracts under Federal Awards

- a) Contracts for more than the simplified acquisition threshold set at \$150,000.
All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by [41 U.S.C. §1908](#),

must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

b) Contracts in excess of \$10,000.

All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Article AF - Terrorist Financing E.O. 13224

All recipients must comply with [U.S. Executive Order 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

Article AG - Whistleblower Protection Act

All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

XIV. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

XV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XVI. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the subrecipient give a written assurance of intent to perform. If the subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVII. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVIII. THIRD PARTY ANTITRUST VIOLATIONS

The subrecipient assigns the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to subrecipient toward fulfillment of this Agreement.

XIX. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate

this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the subrecipient in the execution of this Agreement.

XX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XXI. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXII. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION

- a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.
- b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.
- c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIV. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS. The subrecipient agrees to comply with any such amendment within ten (10) business days of receipt of a fully executed amendment. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXV. RESTRICTIONS ON LOBBYING

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

XXVI. LICENSING

The subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVII. NON-DISCRIMINATION

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order 2009-09.

XXVIII. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXIX. SEVERABILITY

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

XXX. ADVERTISING AND PROMOTION OF AGREEMENT

The subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the AZDOHS.

XXXI. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

"This document was prepared under a grant from the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential subrecipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

XXXII. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the subrecipient shall include closed captioning of the verbal content of such announcement.

XXXIII. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, (State Agency) is self-insured per A.R.S. 41-621.

In addition, should subrecipient utilize a contractor(s) and subcontractor(s), the indemnification clause between subrecipient and contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the (insert name of other governmental entity) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

XXXIV. TERMINATION

- a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the subrecipient or the grantor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses, and permits or to make satisfactory progress in performing the Agreement. The staff of either party shall provide a written thirty (30) day advance notice of the termination and the reasons for it.
- b) If the subrecipient chooses to terminate the contract before the grant deliverables have been met then the AZDOHS reserves the right to collect all reimbursements distributed to the subrecipient.
- c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the subrecipient.

XXXV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXVI. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXVII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

XXXVIII. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the subrecipient represents and warrants that he or she is duly authorized to execute this Agreement.

XXXIX. SPECIAL CONDITIONS

- a) The subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements
- b) The subrecipient acknowledges that the U.S. Department of Homeland Security and the AZDOHS reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
- c) The subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
- d) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Operation Stonegarden).

XL. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing, be delivered in person, or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington Street, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic and reimbursement notices relative to this Agreement to the appropriate AZDOHS staff; contact information at www.azdohs.gov.

The AZDOHS shall address all notices relative to this Agreement to:

Enter Title, First & Last Name Above

Enter Agency Name Above

Enter Street Address Above

Enter City, State, ZIP Above

XLI. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Enter Agency Name Above

Authorized Signature Above

Print Name & Title Above

Enter Date Above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

(Complete and mail two original documents to the Arizona Department of Homeland Security.)

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 11C

Date Prepared: September 17, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager
FROM: Roy W. Minter, Jr., Chief of Police
THROUGH: Jeff Tyne, Deputy City Manager
SUBJECT: Grant Funding from the Tohono O'odham Nation

Purpose:

This is a request to accept a grant from the Tohono O'odham Nation. By executing this Grant-in-Aid, the City of Peoria will accept \$44,000 in funding for the purpose of purchasing two vehicles for the Patrol Volunteer Unit and will allocate an additional \$5,000 in matching funds from the Peoria Police Department's Asset Forfeiture account.

Background/Summary:

The Peoria Police Department desires to accept funding provided by the Tohono O'odham Nation in the amount of \$44,000. This Proposition 202 funding will be used to support the purchase of two Patrol Volunteer vehicles to enhance services to the community. The addition of these vehicles will allow patrol volunteers to complete their assignments with greater efficiency and effectiveness. Some of the services these volunteers provide include the Vacation Watch program, assistance with disabled vehicles, traffic control and accident scenes, crime scene security and involvement in community events such as GAIN and VIN etching clinics.

Matching funds of \$5,000 will be provided from the Peoria Police Department's Asset Forfeiture account.

Previous Actions:

City Council has previously accepted grants from the Tohono O'odham Nation. The Peoria Police Department was previously awarded funds in September 2013 for a Surveillance Tower and in January 2011 for a Mobile Investigation and Rehabilitation Vehicle.

Options:

A: Execute the grant agreement with the Tohono O’odham Nation and approve a budget adjustment in the amount of \$49,000 from the Proposed Grants Contingency Account to the Tohono O’odham Nation Grant account (\$44,000) and the Police Department Asset Forfeiture account (\$5,000).

B: Choose not to accept the grant agreement with the Tohono O’odham Nation.

Staff’s Recommendation:

Authorize the City of Peoria to accept \$44,000 from the Tohono O’odham Nation to be used by the Peoria Police Department for the purchase of two vehicles for the Patrol Volunteer Unit.

Fiscal Analysis:

Request a budget adjustment of \$49,000 from the Proposed Grants Contingency account (7990-7990-570000) to the following accounts: \$44,000 to the Tohono O’odham Nation Trucks and Van account (7537-7779-542502) and \$5,000 in matching funds to the Police Asset Forfeiture Trucks & Vans account (7350-7500-542502). Approval of this adjustment will provide expenditure authority.

Narrative:

Once approved by City Council, the grant agreement will be executed as needed.

Exhibit(s):

Exhibit 1: Tohono O’odham Nation Grant-in-Aid Agreement

Contact Name and Number: Jennifer Loper, 623-773-7072



Tohono O'odham Nation Office of the Chairman and Vice Chairman



Edward D. Manuel
Chairman

Verlon M. Jose
Vice Chairman

August 31, 2015

Ms. Teresa Corless
Administrative Services Manager
Peoria Police Department
8351 W. Cinnabar Ave.
Peoria, AZ 85345

Dear Ms. Corless

I am pleased to inform you that your proposal submitted on behalf of the Peoria Police Department was selected by the Tohono O'odham Nation as a recipient of the 12% grant funding in the amount of \$44,000 for Patrol Volunteer Vehicles. We are honored to support local communities and hope that this grant will help the Peoria Police Department make positive impacts in Arizona.

As was indicated in the Request for Proposals issued by the Nation, the grant is conditional upon development of an Intergovernmental Agreement (IGA).

Please contact Roberta Tekala in my office immediately at 520-383-2028 so we can begin drafting the IGA and take the steps necessary for final approval of this grant funding. Congratulations to you and the Peoria Police Department; I look forward to working with you to finalize your grant award.

Sincerely,


Edward D. Manuel
Chairman, Tohono O'odham Nation

**Grant-in-Aid Agreement
between
the Tohono O’odham Nation
and
the City of Peoria**

THIS GRANT-IN-AID AGREEMENT (“Grant”) is entered into as of the _____ day of _____, 2015, by and between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the City of Peoria, an Arizona Municipal Corporation organized under the constitution and statutes of the State of Arizona Recitals.

A. The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Tohono O’odham Nation with Federal, State and local governments.

B. The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Tohono O’odham Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

C. The City of Peoria is authorized to enter into this Grant with the Nation pursuant to A.R.S. § 11-952, which provision empowers Arizona political subdivisions to enter into intergovernmental agreements with Federal entities and agencies, such Indian Tribes.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

P R O V I S I O N S

1. Purpose. The purpose of this Grant is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, as hereinafter defined. The Grantee may not change the scope of the project or use the funds for a project other than that explained in Exhibit “A” without the written consent of the Nation.

2. Contribution. The Nation shall issue payment to the City of Peoria in the amount described in Exhibit “A” (the “Contribution”) for the purpose(s) detailed in Exhibit “A” on or about November 28, 2015.

3. Funding. The Contribution payment shall be delivered to the City of Peoria, without any further notice or invoice required, at the address set forth in Paragraph 7 below, upon the complete execution of this Grant.

4. Money Unclaimed. In the event that the City of Peoria fails to accept the grant funding on or before January 1, 2016, this Grant will be deemed to have been terminated by the City of Peoria and the Nation will award the grant funding to another applicant.

5. Dispute Resolution. The parties mutually agree that any disputes arising pursuant to this Grant shall be resolved through informal dispute resolution. For all disputes arising under this agreement the Nation and the City of Peoria shall first attempt to negotiate a resolution. Unless prohibited by Arizona law, all disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the law of the Nation.

6. Reports: Unless otherwise extended by the Nation upon request of the City of Peoria, no later than July 31, 2016, the City of Peoria shall provide a report to the Nation explaining how and when the funds provided under this Grant were used. This report may be in the form of an affidavit signed by an officer of the City of Peoria and may be accompanied by supporting documentation. The report shall address: (i) changes in the scope of the project or purchase funded under this grant, (ii) the total expenses under the project or purchase funded by the Grant, (iii) a brief description of who has benefited from this Grant, and (iv) the Grantee's next steps with regard to the project or purchase made under this Grant. The Grantee will submit a final report to the Nation within 30 days of the end of this Agreement.

7. Notices. Any notice, consent or other communication required or permitted under this Grant shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation: Edward D. Manuel
 Chairman
 P.O. Box 837
 Sells, Arizona 85634
 Fax: 520-383-3379

and

 Roberta Tekala
 Chief Administrative Officer
 P.O. Box 837
 Sells, Arizona 85634
 Fax: 520-383-3379

If to the City of Peoria:

 Teresa Corless
 Administrative Services Manager
 8351 W. Cinnabar Avenue
 Peoria, Arizona 85345

Email: teresa.corless@peoriaaz.gov
Phone: 623-773-7035

and

Benny Pina
Deputy Chief
8351 W. Cinnabar Avenue
Peoria, Arizona 85345
Email: benny.pina@peoriaaz.gov
Phone: 623-773-7046

With a copy to: City Attorney
City of Peoria
8401 W. Monroe, Room 280
Peoria, AZ 85345
Fax: 623-773-7043

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

8. Term of Grant. The term of this Grant shall begin on the date of execution and shall terminate on the one-year anniversary of this Grant.

9. Entire Grant, Waivers and Amendments. This Grant is executed in three (3) duplicate originals, each of which is deemed to be an original. This Grant constitutes the entire understanding and agreement of the parties. This Grant integrates all of the terms and conditions mentioned herein or incident hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Grant and all amendments hereto must be in writing and signed by the appropriate authorities of each of the parties to this Grant.

10. No Waiver. Except as otherwise expressly provided in this Grant, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

11. Severability. If any provision of this Grant shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Grant shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. Sovereign Immunity. Nothing in this Grant shall be deemed a waiver of either party's sovereign immunity in any forum or jurisdiction.

TOHONO O'ODHAM NATION

CITY OF PEORIA

Edward D. Manuel, Chairman
Tohono O'odham Nation

Cathy Carlat, Mayor
City of Peoria

Dated _____

Dated _____

Attest:

Approved as to form:

Approved as to form and found to be within the powers and authority of the City of Peoria under the laws of the State of Arizona.

Laura Berglan, Acting Attorney General
Tohono O'odham Nation

Steve Kemp, City Attorney
City of Peoria

Dated _____

Dated _____

Additional Signatures Required

Dated _____

Rhonda Geriminsky, City Clerk
City of Peoria

EXHIBIT "A"

<u>Program</u>	<u>Contribution</u>
Patrol Volunteer Vehicles	\$44,000.00
TOTAL	\$44,000.00

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 12C

Date Prepared: September 17, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

THROUGH: Jeff Tyne, Deputy City Manager

FROM: Bobby Ruiz, Fire Chief

SUBJECT: Grant-in-Aid Fiscal Agent Agreement between the Tohono O'odham Nation and City of Peoria

Purpose:

This is a request for City Council to approve the Grant-In-Aid Agreement between the Tohono O'odham Nation and the City of Peoria, and approve a budget amendment to purchase for the purchase amount.

Background/Summary:

The Fire-Medical Department was awarded a \$79,800 grant from the Tohono O'odham Nation's 12 percent gaming distribution grant program. The Fire-Medical Department's grant proposal requested funding for the purchase of an Alternative Response Vehicle (ARV) to create a pilot program with a new two-person medical response for non-life threatening (low-acuity) calls for service in the busiest service areas of Peoria. The purpose of the ARV is to respond to those low-acuity calls (fall injuries, lift assists, lock-outs, etc.) for service, thus allowing the Paramedic staffed fire engines to stay available in their first-due areas to respond to the more serious calls (fires, heart attacks, strokes, etc.). Having an ARV available in the busiest parts of our city to respond to calls will reduce wear and tear on the fire engines, reduce the fire department's overall fuel consumption, and will have a positive effect on the response times to those areas.

A staffing model for the Alternative Response Vehicle and projected costs of operations for personnel, supplies, equipment and vehicle maintenance and replacement will be included in a future Council Communication.

Previous Actions:

Staff applied for the grant on June 10, 2015, asking for the amount of \$79,800 from the Tohono O'odham Nation.

On August 29, 2015 at a Council seminar, the Fire Chief presented information about the Alternative Response Vehicle program and how it would work to improve the delivery of Emergency Medical Services to the citizens of Peoria.

Options:

A: Approve the Grant-in-Aid Agreement between the Tohono O’odham Nation and the City of Peoria. Also approve a budget amendment of \$79,800 from Proposed Grant contingency to the Tohono O’odham Grant-Other Vehicle account.

B: Not approve the Grant-in-Aid Agreement between the Tohono O’odham Nation and the City of Peoria.

Staff’s Recommendation:

Staff recommends that the City Council approve the Grant-In-Aid Agreement between the Tohono O’odham Nation and the City of Peoria.

Fiscal Analysis:

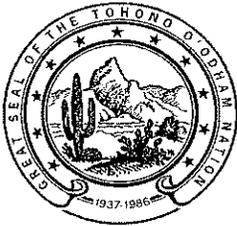
Acceptance of the grant requires a budget amendment of \$79,800 from the Proposed Grant Contingency (7990-7990-570000) to the Tohono O’odham Grant Other Vehicle Account (7537-7779 -542505) to provide expenditure authority to purchase the Alternative Response Vehicle.

Funding for the costs to operate and staff the vehicle is anticipated to be supported through the city’s General Fund.

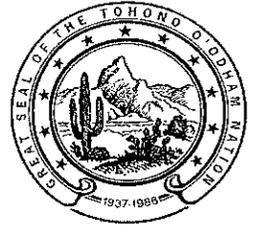
Exhibit 1: Award letter from the Tohono O’odham Nation to the Peoria Fire-Medical Department.

Exhibit 2: Grant-in-Aid Fiscal Agent Agreement between the Tohono O’odham Nation and the City of Peoria.

Contact Name and Number: Fire Chief Bobby Ruiz, ext. 7380



Tohono O'odham Nation
Office of the Chairman and Vice Chairman



Edward D. Manuel
Chairman

Verlon M. Jose
Vice Chairman

August 31, 2015

Ms. Tamara Shreeve
Council Office and Grant Program Manager
Peoria Fire-Medical Department
8401 W. Monroe
Peoria, AZ 85345

Dear Ms. Shreeve

I am pleased to inform you that your proposal submitted on behalf of the Peoria Fire-Medical Department was selected by the Tohono O'odham Nation as a recipient of the 12% grant funding in the amount of \$79,800 for the Alternative Response Vehicle. We are honored to support local communities and hope that this grant will help the Peoria Fire-Medical Department make positive impacts in Arizona.

As was indicated in the Request for Proposals issued by the Nation, the grant is conditional upon development of an Intergovernmental Agreement (IGA).

Please contact Roberta Tekala in my office immediately at 520-383-2028 so we can begin drafting the IGA and take the steps necessary for final approval of this grant funding. Congratulations to you and the Peoria Fire-Medical Department; I look forward to working with you to finalize your grant award.

Sincerely,

Edward D. Manuel
Chairman, Tohono O'odham Nation

**Grant-in-Aid Agreement
between
the Tohono O’odham Nation
and
the City of Peoria**

THIS GRANT-IN-AID AGREEMENT (“Grant”) is entered into as of the _____ day of _____, 2015, by and between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the City of Peoria, an Arizona Municipal Corporation organized under the constitution and statutes of the State of Arizona Recitals.

Recitals

A. The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Tohono O’odham Nation with Federal, State and local governments.

B. The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Tohono O’odham Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

C. The City of Peoria is authorized to enter into this Grant with the Nation pursuant to A.R.S. § 11-952, which provision empowers Arizona political subdivisions to enter into intergovernmental agreements with Federal entities and agencies, such Indian Tribes.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

P R O V I S I O N S

1. Purpose. The purpose of this Grant is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, as hereinafter defined. The Grantee may not change the scope of the project or use the funds for a project other than that explained in Exhibit “A” without the written consent of the Nation.

2. Contribution. The Nation shall issue payment to the City of Peoria in the amount described in Exhibit “A” (the “Contribution”) for the purpose(s) detailed in Exhibit “A” on or about November 28, 2015.

3. Funding. The Contribution payment shall be delivered to the City of Peoria, without any further notice or invoice required, at the address set forth in Paragraph 7 below, upon the complete execution of this Grant.

4. Money Unclaimed. In the event that the City of Peoria fails to accept the grant funding on or before January 1, 2016, this Grant will be deemed to have been terminated by the City of Peoria and the Nation will award the grant funding to another applicant.

5. Dispute Resolution. The parties mutually agree that any disputes arising pursuant to this Grant shall be resolved through informal dispute resolution. Unless prohibited by Arizona law, all disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the law of the Nation.

6. Reports: Unless otherwise extended by the Nation upon request of the City of Peoria, no later than July 31, 2016, the City of Peoria shall provide a report to the Nation explaining how and when the funds provided under this Grant were used. This report may be in the form of an affidavit signed by an officer of the City of Peoria and may be accompanied by supporting documentation. The report shall address: (i) changes in the scope of the project or purchase funded under this grant, (ii) the total expenses under the project or purchase funded by the Grant, (iii) a brief description of who has benefited from this Grant, and (iv) the Grantee's next steps with regard to the project or purchase made under this Grant. The Grantee will submit a final report to the Nation within 30 days of the end of this Agreement.

7. Notices. Any notice, consent or other communication required or permitted under this Grant shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation: Edward D. Manuel
Chairman
P.O. Box 837
Sells, Arizona 85634
Fax: 520-383-3379

and

Roberta Tekala
Chief Administrative Officer
P.O. Box 837
Sells, Arizona 85634
Fax: 520-383-3379

If to the City of Peoria:

Tamara Shreeve
Strategic Management Officer
8401 W. Monroe
Peoria, Arizona
Email: Tammy.Shreeve@Peoriaaz.gov
Phone: 623-773-5143

and
Stacy Irvine
Deputy Fire Chief
8401 W. Monroe
Peoria, Arizona 85345
Email: Stacy.Irvine@Peoriaaz.gov
Phone: 623-773-7905

With a copy to: City Attorney
City of Peoria
8401 W. Monroe, Room 280
Peoria, AZ 85345
Fax: 623-773-7043

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

8. Term of Grant. The term of this Grant shall begin on the date of execution and shall terminate on the one-year anniversary of this Grant.

9. Entire Grant, Waivers and Amendments. This Grant is executed in three (3) duplicate originals, each of which is deemed to be an original. This Grant constitutes the entire understanding and agreement of the parties. This Grant integrates all of the terms and conditions mentioned herein or incident hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Grant and all amendments hereto must be in writing and signed by the appropriate authorities of each of the parties to this Grant.

10. No Waiver. Except as otherwise expressly provided in this Grant, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

11. Severability. If any provision of this Grant shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Grant shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. Sovereign Immunity. Nothing in this Grant shall be deemed a waiver of either party's sovereign immunity in any forum or jurisdiction.

TOHONO O'ODHAM NATION

CITY OF PEORIA

Edward D. Manuel, Chairman
Tohono O'odham Nation

Cathy Carlat, Mayor
City of Peoria

Dated _____

Dated _____

Attest:

Approved as to form:

Approved as to form and found to be within the powers and authority of the City of Peoria under the laws of the State of Arizona.

Laura Berglan, Acting Attorney General
Tohono O'odham Nation

Steve Kemp, City Attorney
City of Peoria

Dated _____

Dated _____

Additional Signature Required

Dated _____

Rhonda Geriminsky, City Clerk
City of Peoria

EXHIBIT "A"

<u>Program</u>	<u>Contribution</u>
Alternative Response Vehicle	\$79,800.00
TOTAL	\$79,800.00

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 13C

Date Prepared: September 17, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: William Mattingly, Public Works-Utilities Director

THROUGH: Jeff Tyne, Deputy City Manager

SUBJECT: Award of a Single Source Contract to Ovivo USA, LLC for Fine Screen Repair Parts at the Butler Water Reclamation Facility

Purpose:

Discussion and possible action to approve a Single Source Contract in an amount not to exceed \$93,000 to Ovivo USA, LLC for Fine Screen Repair Parts at Butler Water Reclamation Facility.

Background/Summary:

The Butler Water Reclamation Facility pretreatment system consists of three 2mm fine screens that were installed in 2008. Fine Screen No. 3 is currently out-of-service and in need of repair and rebuilding. The repair effort will consist of replacing the carrier chain, roller assembly and other ancillary parts. Similar repairs have previously been performed on Fine Screens No. 1 and No.2. Fine screens are a vital component of the wastewater treatment process at the Butler Water Reclamation Facility and provide screening to protect downstream components, including pumps and delicate process membranes. Funds are available in the FY16 Butler Water Reclamation Facility Operating Budget.

Previous Actions:

There were no previous actions related to this item.

Options:

- A:** Council could act to approve a Single Source Contract in an amount not to exceed \$93,000 to Ovivo USA, LLC.
- B:** Council could decline to approve the Single Source Contract in an amount not to exceed \$93,000 to Ovivo USA, LLC.

Staff's Recommendation:

Staff recommends approval of the Single Source Contract in an amount not to exceed \$93,000 to Ovivo USA, LLC for repair parts for the Butler Water Reclamation Facility fine screen No. 3.

Fiscal Analysis:

Sufficient funds are available in the Butler Water Reclamation Facility Treatment Plant Supplies account (2400-2496-533510).

Exhibit 1: Ovivo USA, LLC Contract

Contact Name and Number: William Mattingly, Public Works – Utilities Director, 623-773-5151



MEMORANDUM

DATE: September 1st, 2015

TO: Roger Carr, Utilities Operations Manager
Michael D. Weber, Deputy Utilities Director

FROM: Robert Garcia; Utilities Treatment Supervisor; Butler WRF

SUBJECT: Single Source Justification for Ovivo Fine Screen Repair
(Limited Source Procurement, per City Code, Sec. 2-317)

#1: Explanation of the product or service required:

Butler WRF headworks include three 2 mm Bracket Green Screens. We are currently down to two of the three screens and are in need of replacing the Chain Main Carrier and roller assemblies on No.3 screen. We are also in need of panels, and other parts associated with the chain and it's carrier including the Secondary Shaft Assembly for a total reconditioning of the Fine Screen. The Fine Screen incorporates additional Mechanical Pumps or Macerators for the shredding and compaction of the collected screening material that make the waste appropriate for hauling to the land fill for disposal. These pumps include cutters, mechanical seals, anti-foul shrouds and headstock assemblies to name a few of the parts. We incorporated the costs for total reconditioning of the Screen, Compactor and Pumps, including gaskets and other items at a total cost of \$87,947.00 not including tax. Some of the items have a two to fourteen week lead time for shipping and construction of the material.

#2 Explanation of the existence of a single source condition which explains the rationale for non-competitive procurement:

Ovivo is the sole provider and manufacturer of all mechanical parts associated with the operation of Bracket Green Fine Screens a proprietary screen. The additional macerator and compactor are provided by Ovivo and are an intricate part of the operation of the system as designed. Ovivo is the sole provider of the chain assembly, and manufacturer of the Secondary Head Shaft Assembly needed in the use of screening material no larger than 2 mm. Ovivo is the sole provider of all parts including new pins, bushings and roller assemblies needed to recondition the chain as needed. All the parts listed in the Customer Quote have been confirmed, and justifies the use of Ovivo as the sole provider of all parts, associated with the reconditioning of the screens.

#3 Summary of efforts made to locate other potential sources, methods to locate them and the reason for selection or rejection:

From time to time and due to wear and tear of the original material associated with keeping the fine screens in operational condition. Unfortunately, most of the materials, parts, pumps and special equipment needed to keep the Fine Screens capable of maintain their performance we are required to recondition the screens with original manufactured parts. Reaching out to other vendors are not an option due to the types of materials, drive units, head units, pins and bushings all are specifically made for these units and require special attention and rebuild materials. We are unable to locate other potential sources capable of remanufacturing the parts needed to refurbish these units. Therefore it is required that we use original "Ovivo" manufactured parts.

Ovivo USA, LLC
4246 Riverboat Road, Suite 300
Salt Lake City, Utah
84123-2583
USA

Telephone: 801.931.3011
Facsimile: 801.931.3080
www.ovivowater.com

OVIVO
Bringing water to life

Re: Eimco Water Technologies Equipment

September 2nd, 2015

City of Peoria
8401 W. Monroe Street
Peoria-AZ-85345.

To whom it may concerned,

Please be advised that Ovivo USA, LLC is the exclusive "Sole" manufacturer and seller for the parts used in Brackett Green process equipment used in water and wastewater treatment process.

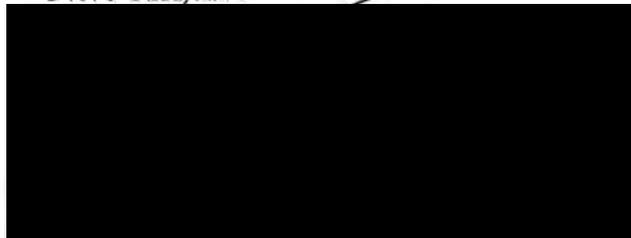
Purchase orders are to be made out to Ovivo USA, LLC and will be invoiced directly.

Ovivo USA, LLC
4246 Riverboat Road, Suite 300
Salt Lake City, Utah-84123-2583.

Please direct all inquiries for municipal water treatment equipment to the above address.

Very truly yours,

Ovivo USA, LLC



Philippe Rateau
Account Manager
801-931-3011
Philippe.rateau@ovivowater.com



Ovivo USA, LLC
 4246 Riverboat Road, Suite 300
 Salt Lake City, UT 84123
 Phone: (801)931-3000 Fax: (801)931-3080

Customer Quote

ATTENTION: Robert Garcia

PHONE NO: 623-773-7560

SOLD TO CUSTOMER NUMBER 100877 Peoria, City of 8401 W. Monroe Street Peoria AZ 85345 USA	SHIP TO Butler Water Reclamation Facility 8660 North 79th Avenue Peoria AZ 85345 USA
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QUOTE # QSSW008052	DATE 8/20/2015	TERMS Net 30 days	CUSTOMER RFQ	SALESPERSON .NONE	CURRENCY USD
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L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with installation labor services.
 Please contact us for additional turn-key pricing.

1. Shipment: The lead-time indicated are based on the Purchase Order date and any required data. Lead times can vary depending on time of order placement and current inventory levels.
2. DDP-City of Peoria-85345-AZ.
3. Freight allowed : is included in the quote.
4. Sales are final.

L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
1	PART # 544490 CHAIN MAIN CARRIER Drawing: 544490 REV B +	66	EA	14 Weeks	384.00	25,344.00
2	PART # 544491 CHAIN MAIN CARRIER OFFSET Drawing: 544491 REV B +	2	EA	14 Weeks	422.00	844.00
3	PART # 581525 SEAL,MAINCHAIN,UPPER,NEOPRENE Drawing: 581525 REV A +	2	EA	7 Weeks	1,235.00	2,470.00
4	PART # 529969 BASKET MESH PANEL REMOVABL, POLYURETHANE	3	EA	6 Weeks	2,558.00	7,674.00

DATE: 8/20/2015



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QSSW008052	8/20/2015	Net 30 days		.NONE	USD

L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Drawing: 529969 REV B +

5	PART # 529968 BASKET MESH PANEL, POLYURETHANE Drawing: 529968 REV B +	10	EA	6 Weeks	1,371.00	13,710.00
6	PART # 584532 SPRAY NOZZLE NF7065 303 SS 65 DEG Drawing: 584532 REV A +	15	EA	6 Weeks	22.00	330.00
7	PART # 590156 SEAL FIN GUIDE 2, 316 SS Drawing: 590156 REV A	2	EA	4 Weeks	161.00	322.00
8	PART # 590158 SEAL FIN GUIDE 1, 316 SS Drawing: 590158 REV A	2	EA	4 Weeks	161.00	322.00
9	PART # 544485 WIPER BLADE, NEOPRENE Drawing: 544485 REV B	6	EA	3 Weeks	81.00	486.00
10	PART # F11600 CPSCR HX HD 1/4-20x5/8 316SS Drawing: N/A REV -	8	EA	1 Week	0.50	4.00

DATE: 8/20/2015



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QUOTE # QSSW008052	DATE 8/20/2015	TERMS Net 30 days	CUSTOMER RFQ	SALESPERSON .NONE	CURRENCY USD
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L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with Installation labor services.
 Please contact us for additional turn-key pricing.

11	PART # F11211 WASHER,PLN TYPE A-W,316SS,1/4 Drawing: N/A	8	EA	1 Week	0.50	4.00
12	PART # M011249 WASHER,LOCK,1/4",316 SS	8	EA	1 Week	0.25	2.00

Parts including in the Head Shaft Assembly : two sprockets / head shaft / two keys / two bearings fixe and expansion / the complete assembly with primer paint.

Drawing: N/A

13	PART # 766200 SECONDARY ASSY,HEAD SHAFT,CRATE/PAINT	1	EA	8 Weeks	21,038.00	21,038.00
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Lines 14 to 25 : The rebuild kit is for the Macipump with S/N: 47451-H22955.

Drawing: REF 529919

DATE: 8/20/2015



Ovivo USA, LLC
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 Salt Lake City, UT 84123
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Customer Quote

ATTENTION: Robert Garcia

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SOLD TO CUSTOMER NUMBER 100877 Peoria, City of 8401 W. Monroe Street Peoria AZ 85345 USA	SHIP TO Butler Water Reclamation Facility 8660 North 79th Avenue Peoria AZ 85345 USA
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QUOTE #	DATE	TERMS	CUSTOMER RFQ	SALESPERSON	CURRENCY
QSSW008052	8/20/2015	Net 30 days		.NONE	USD

L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with installation labor services.
 Please contact us for additional turn-key pricing.

14	PART # 766008 SEAL, MECHANICAL 60MM REV N/A	1	EA	4 Weeks	3,059.00	3,059.00
15	PART # 766285 KIT, O-RING/SEAL (301 STORM MACI 109209) REV N/A	1	EA	4 Weeks	313.00	313.00
16	PART # 766286 SEAL, SLEEVE, SERIES 350/400 REV N/A	1	EA	4 Weeks	362.00	362.00
17	PART # 766287 SPACER, SS REV N/A	1	EA	4 Weeks	401.00	401.00
18	PART # 552885 ANTI-FOUL SHROUD	1	EA	4 Weeks	975.00	975.00
19	PART # 766288 HEADSTOCK ASSY, 300 STORM REV N/A	1	EA	4 Weeks	1,257.00	1,257.00
20	PART # 585336 SHEARPLATE (924-050230)	1	EA	4 Weeks	1,177.00	1,177.00

DATE: 8/20/2015



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 4246 Riverboat Road, Suite 300
 Salt Lake City, UT 84123
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Customer Quote

ATTENTION: Robert Garcia

PHONE NO: 623-773-7560

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QUOTE #	DATE	TERMS	CUSTOMER RFQ	SALESPERSON	CURRENCY
QSSW008052	8/20/2015	Net 30 days		.NONE	USD

L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with installation labor services.
 Please contact us for additional turn-key pricing.

Drawing: N/A

21	PART # 592459 SPRING HOUSING REV _	1	EA	4 Weeks	784.00	784.00
22	PART # 588173 BEARING,ROLLER Drawing: N/A	1	EA	4 Weeks	287.00	287.00
23	PART # 588174 BEARING,BALL (ANG CONTACT) Drawing: N/A	1	EA	4 Weeks	275.00	275.00
24	PART # 766289 KIT, FASTENERS 300 CUTTERHEAD ASSY REV N/A	1	EA	4 Weeks	98.00	98.00
25	PART # 766290 NUT, ADVANCING	1	EA	4 Weeks	93.00	93.00

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Lines 26 to 36 : The Rebuild Kit is for the Macipump with S/N: 31444-H25815.

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DATE: 8/20/2015



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 Salt Lake City, UT 84123
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L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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 Please contact us for additional turn-key pricing.

REV N/A

26	PART # 592463 MECHANICAL SEAL REV _	1	EA	4 Weeks	686.00	686.00
27	PART # 584927 COMPLETE O-RING/SEAL KIT Drawing: N/A REV _ +	1	EA	4 Weeks	345.00	345.00
28	PART # 585734 SLEEVE Drawing: N/A	1	EA	4 Weeks	150.00	150.00
29	PART # 580907 SPACER SS	1	EA	4 Weeks	221.00	221.00
30	PART # 696332 SHROUD,ANTI FOUL	1	EA	4 Weeks	1,187.00	1,187.00
31	PART # 585335 CUTTERHEAD, HEADSTOCK Drawing: N/A	1	EA	4 Weeks	1,106.00	1,106.00



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QUOTE #	DATE	TERMS	CUSTOMER RFQ	SALESPERSON	CURRENCY
QSSW008052	8/20/2015	Net 30 days		.NONE	USD

L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with installation labor services.
 Please contact us for additional turn-key pricing.

32	PART # 585336 SHEARPLATE (924-050230) Drawing: N/A	1	EA	4 Weeks	1,177.00	1,177.00
33	PART # 592459 SPRING HOUSING REV _	1	EA	4 Weeks	784.00	784.00
34	PART # 588173 BEARING,ROLLER Drawing: N/A	1	EA	4 Weeks	287.00	287.00
35	PART # 588174 BEARING,BALL (ANG CONTACT) Drawing: N/A	1	EA	4 Weeks	275.00	275.00
36	PART # 766289 KIT, FASTENERS 300 CUTTERHEAD ASSY	1	EA	4 Weeks	98.00	98.00



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L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with installation labor services.
 Please contact us for additional turn-key pricing.

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Your point of contact is :

Philippe Rateau
 E-mail: philippe.rateau@ovivowater.com
 Phone: 801-931-3011.
 Fax: 801-931-3080.

=====

REV N/A

Sale Amount:	87,947.00
Total Amount:	87,947.00
	USD

- A) The Ovivo USA, LLC Terms and Conditions of Sale are attached and made essential parts of the Ovivo USA, LLC proposal or purchase order confirmation. These terms and conditions replace and supersede any terms and conditions or warranty included in Buyer's or Owner's purchase order, requests for quotation or specifications and cannot be changed without written approval from an authorized representative of Ovivo USA, LLC.
- B) GST and all other taxes are extra, if applicable.
- C) Pricing valid for acceptance 30 days from date of the proposal document, and will be subject to change thereafter.
- D) Shipping shall be (FCA) Free Carrier at point of manufacture unless otherwise stated above. Insurance is the responsibility of Buyer.
- E) Payment terms are stated above.
- F) Duty, freight and brokerage costs are for Buyer's account unless stated otherwise herein.
- G) Minimum billing of \$100 per order.
- H) Notwithstanding any liabilities or responsibilities it has assumed hereunder, Ovivo USA, LLC shall in no event be responsible to Buyer or any third party in contract or in tort, or otherwise, for loss or damage sustained as a result of the operation of the equipment, loss of use, expenses involved in loss of capital claims or Buyer's or Owner's loss of profit or revenues, or any other indirect, incidental, special or consequential loss or damage, whether arising from defects, delay, or any other cause whatsoever.
- I) Current Ovivo USA, LLC paint specifications shall apply unless otherwise specified.
- J) Any and all stock or "off the shelf" parts returned to Ovivo USA, LLC are subject to a re-stocking fee equal to 25% of their respective invoice price. All other parts, including but not limited to customized and special manufactured parts, shall, at the sole discretion of Ovivo USA, LLC be (i) subject to a restocking fee of 45% of their respective invoice price or (ii) non-refundable.

PLEASE ADDRESS AND SUBMIT YOUR PURCHASE ORDER TO THE ADDRESS INDICATED ABOVE.



Terms & Conditions of Sale

1. **ACCEPTANCE.** The proposal of OVIVO USA, LLC ("SELLER"), as well as these terms and conditions of sale (collectively the "Agreement"), constitutes SELLER's contractual offer of goods and associated services, and PURCHASER's acceptance of this offer is expressly limited to the terms of the Agreement. The scope and terms and conditions of this Agreement represent the entire offer by SELLER and supersede all prior solicitations, discussions, agreements, understandings and representations between the parties. Any scope or terms and conditions included in PURCHASER's acceptance/purchase order that are in addition to or different from this Agreement are hereby rejected.

2. **DELIVERY.** Any statements relating to the date of shipment of the Products (as defined below) represent SELLER's best estimate, but is not guaranteed, and SELLER shall not be liable for any damages due to late delivery. The Products shall be delivered to the delivery point or points in accordance with the delivery terms stated in SELLER's proposal. If such delivery is prevented or postponed by reason of Force Majeure (as defined below), SELLER shall be entitled at its option to tender delivery to PURCHASER at the point or points of manufacture, and in default of PURCHASER's acceptance of delivery to cause the Products to be stored at such a point or points of manufacture at PURCHASER's expense. Such tender, if accepted, or such storage, shall constitute delivery for all purposes of this agreement. If shipment is postponed at request of PURCHASER, or due to delay in receipt of shipping instructions, payment of the purchase price shall be due on notice from SELLER that the Products are ready for shipment. Handling, moving, storage, insurance and other charges thereafter incurred by SELLER with respect to the Products shall be for the account of PURCHASER and shall be paid by PURCHASER when invoiced.

3. **TITLE AND RISK OF LOSS.** SELLER shall retain the fullest right, title, and interest in the Products to the extent permitted by applicable law, including assembly, until the full purchase price has been paid to SELLER. The giving and accepting of drafts, notes and/or trade acceptances to evidence the payments due shall not constitute or be construed as payment so as to pass SELLER's interest in and drafts, notes and/or trade acceptances are paid in full. Risk of loss shall pass to PURCHASER at the delivery point.

4. **PAYMENT TERMS.** SELLER reserves the right to ship the Products and be paid for such on a pro rata basis, as shipped. If payments are not made by the due date, interest at a rate of two percent (2%) per month, calculated daily, shall apply from the due date for payment. PURCHASER is liable to pay SELLER's legal fees and all other expenses in respect of enforcing or attempting to enforce any of SELLER's rights relating to a breach or threatened breach of the payment terms by PURCHASER.

5. **TAXES.** Unless otherwise specifically provided in SELLER's quotation/proposal, PURCHASER shall pay and/or reimburse SELLER, in addition to the price, for all sales, use and other taxes, excises and charges which SELLER may pay or be required to pay to any government directly or indirectly in connection with the production, sale, transportation and/or use by SELLER or PURCHASER, of any of the Products or services dealt with herein (whether the same may be regarded as personal or real property). PURCHASER agrees to pay all property and other taxes which may be levied, assessed or charged against or upon any of the Products on or after the date of actual shipment, or placing into storage for PURCHASER'S account.

6. **MECHANICAL WARRANTY.** Solely for the benefit of PURCHASER, SELLER warrants that new equipment and parts manufactured by it and provided to PURCHASER (collectively, "Products") shall be free from defects in material and workmanship. The warranty period shall be twelve (12) months from startup of the equipment not to exceed eighteen (18) months from shipment. If any of SELLER'S Products fail to comply with the foregoing warranty, SELLER shall repair or replace free of charge to PURCHASER, EX WORKS SELLER'S FACTORIES or other location that SELLER designates, any Product or parts thereof returned to SELLER, which examination shall show to have failed under normal use and service operation by PURCHASER within the Warranty Period, provided, that if it would be impracticable for the Proche or part thereof to be returned to SELLER, SELLER will send a representative to PURCHASER'S job site to inspect the Product. If it is determined after inspection that SELLER is liable under this warranty to repair or replace the Product or part thereof, SELLER shall bear the transportation costs of (a) returning the Product to SELLER for inspection or sending its representative to the job site and (b) returning the repaired or replaced Products to PURCHASER; however, if it is determined after inspection that SELLER is not liable under this warranty, PURCHASER shall pay those costs. For SELLER to be liable with respect to this warranty, PURCHASER must make its claims to SELLER with respect to this warranty in writing no later than thirty (30) days after the date PURCHASER discovers the basis for its warranty claim and in no event more than thirty (30) days after the expiration of the Warranty Period. In addition to any other limitation or disclaimer with respect to this warranty, SELLER shall have no liability with respect to any of the following: (i) failure of the Products, or damages to them, due to PURCHASER'S negligence or willful misconduct, abuse or improper storage, installation, application or maintenance (as specified in any manuals or written instructions that SELLER provides to the PURCHASER); (ii) any Products that have been altered or repaired in any way without SELLER'S prior written authorization; (iii) The costs of dismantling and reinstallation of the Products; (iv) any Products damaged while in transit or otherwise by accident; (v) decomposition of Products by chemical action, erosion or corrosion or wear to Products or due to conditions of temperature, moisture and dirt; or (vi) claims with respect to parts that are consumable and normally replaced during maintenance such as filter media, filter drainage belts and the like, except where such parts are no performing to SELLER'S estimate of normal service life, in which case, SELLER shall only be liable for the pro rata cost of replacement of those parts based on SELLER'S estimate of what the remaining service life of those parts should have been; provided, that failure of those parts did not result from any of the matters listed in clauses (i) through (v) above. With regard to third-party parts, equipment, accessories or components not of SELLER'S design, SELLER'S liability shall be limited solely to the assignment of available third-party warranties. **THE PARTIES AGREE THAT ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, WHETHER WRITTEN, ORAL OR STATUTORY, ARE EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.** All warranties and obligations of SELLER shall terminate if PURCHASER fails to perform its obligations under this Agreement including but not limited to any failure to pay any charges due to SELLER. SELLER'S quoted price for the Products is based upon this warranty. Any increase in warranty obligation may be subject to an increase in price.

7. **CONFIDENTIAL INFORMATION.** All nonpublic information and data furnished to PURCHASER hereunder, including but not limited to process, size, type and design of the Products is the sole property of SELLER and submitted to PURCHASER'S own confidential use solely in connection with this Agreement and is not to be made known or available to any third party without SELLER'S prior written consent.

8. **PAINTING.** The Products shall be painted in accordance with SELLER'S standard practice, and purchased items such as motors, controls, speed reducers, pumps, etc., will be painted in accordance with manufacturers' standard practices, unless otherwise agreed in writing.

9. **DRAWINGS AND TECHNICAL DOCUMENTATION.** When PURCHASER requests approval of drawings before commencement of manufacture, shipment may be delayed if approved drawings are not returned to SELLER within fourteen (14) days of receipt by PURCHASER of such drawings for approval. SELLER will furnish only general arrangement, general assembly, and if required, wiring diagrams, erection drawings, installation and operation/maintenance manuals for SELLER'S equipment (in English language). SELLER will supply six (6) complete sets of drawings and operating instructions. Additional sets will be paid for by PURCHASER. Electronic files, if requested from SELLER, will be provided in pdf, jpg or tif format only.

10. **SET OFF.** This Agreement shall be completely independent of all other contracts between the parties and all payments due to SELLER hereunder shall be paid when due and shall not be setoff or applied against any money due or claimed to be due from SELLER to PURCHASER on account of any other transaction or claim.

11. **SOFTWARE.** PURCHASER shall have a nonexclusive and nontransferable license to use any information processing program supplied by SELLER with the Products. PURCHASER acknowledges that such programs and the information contained therein is Confidential Information and agrees: a) not to copy or duplicate the program except for archival or security purposes; b) not to use the program on any computer other than the computer with which it is supplied; and c) to limit access to the program to those of its employees who are necessary to permit authorized use of the program. PURCHASER agrees to execute and be bound by the terms of any software license applicable to the Products supplied.

12. **PATENT INDEMNITY.** SELLER will defend at its own expense any suit instituted against PURCHASER based upon claims that SELLER'S Product hereunder in and of itself constitutes an infringement of any valid apparatus claims of any United States patent issued and existing as of the date of this Agreement, if notified promptly in writing and given all information, assistance, and sole authority to defend and settle the same, and SELLER shall indemnify the PURCHASER against such claims of infringement. Furthermore, in case the use of the Products is enjoined in such suit or in case SELLER otherwise deems it advisable, SELLER shall, at its own expense and discretion, (a) procure for the PURCHASER the right to continue using the Products, (b) replace the same with non-infringing Products, (c) modify the Product so it becomes non-infringing, or (d) remove the Products and refund the purchase price less freight charges and depreciation. SELLER shall not be liable for, and PURCHASER shall indemnify SELLER for, any claim of infringement related to (a) the use of the Products for any purpose other than that for which it was furnished by SELLER, (b) compliance with equipment designs not furnished by SELLER or (c) use of the Products in combination with any other equipment. The foregoing states the sole liability of SELLER for patent infringement with respect to the Products.

13. **GENERAL INDEMNITY.** SELLER agrees to the rights, obligations and limitations of liabilities of the parties set forth in this Agreement. PURCHASER shall protect and indemnify SELLER, its ultimate parent, its ultimate parents, subsidiaries and each of their respective officers, directors, employees and agents, from and against all claims, demands and consequences asserted by any entity, in connection with the negligence or willful misconduct in connection with this Agreement.

14. **DEFAULT, TERMINATION.** In the event that PURCHASER becomes insolvent, commits an act of bankruptcy or defaults in the performance of any term or condition of this Agreement, the entire unpaid portion of the purchase price shall, without notice or demand, become immediately due and payable. SELLER at its option, without notice or demand shall be entitled to sue for said balance and for reasonable legal fees, plus out-of-pocket expenses and interest, and/or to enter any place where the Products are located and to take immediate possession of and remove the Products, with or without legal process; and/or retain all payments made as compensation for the use of the Products; and/or resell the Products, without notice or demand, for and on behalf of the PURCHASER, and to apply the net proceeds from such sale (after deduction from the sale price of all expenses of such sale and all expenses of retaking possession, repairs necessary to put the Products in saleable condition, storage charges, taxes, liens, collection and legal fees and all other expenses in connection therewith) to the balance then due to SELLER for the Products and to receive from the PURCHASER the deficiency between such net proceeds of sale and such balance. PURCHASER hereby waives all trespass, damage and claims resulting from any such entry, repossession, removal, retention, repair, alteration and sale. The remedies provided in this paragraph are in addition to and not limitations of any other rights of SELLER.

15. **CANCELLATION.** PURCHASER may terminate this Agreement for convenience upon giving SELLER thirty (30) days prior written notice of such fact and paying SELLER for all costs and expenses (including overhead) incurred by it in performing its work and closing out the same plus a reasonable profit thereon. All such costs and expenses shall be paid to SELLER within ten (10) days of the termination of the Agreement, or be subject to an additional late payment penalty of five percent (5%) of the total amount of costs and expenses owed.

16. **REMEDIES.** The rights and remedies of the PURCHASER in connection with the goods and services provided by SELLER hereunder are exclusive and limited to the rights and remedies expressly stated in this Agreement.

17. **INSPECTION.** PURCHASER is entitled to make reasonable inspection of Products at SELLER'S facility. SELLER reserves the right to determine the reasonableness of the request and to select an appropriate time for such inspection. All costs of inspections not expressly included as an itemized part of the quoted price of the Products in this Agreement shall be paid by PURCHASER.

18. **WAIVER.** Any failure by SELLER to enforce PURCHASER'S strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

19. **COMPLIANCE WITH LAWS.** If applicable laws, ordinances, regulations or conditions require anything different from, or in addition to, that called for by this Agreement, SELLER will satisfy such requirements at PURCHASER'S written request and expense.

20. **FORCE MAJEURE.** If SELLER is rendered unable, wholly or in material part, by reason of Force Majeure to carry out any of its obligations hereunder, then on SELLER'S notice in writing to PURCHASER within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended. "Force Majeure" shall include, but not be limited to, acts of God, laws and regulations, strikes, civil disobedience or unrest, lightning, fire, flood, windstorm, storm communication lines failure, delays of the PURCHASER or PURCHASER'S subcontractors, breakage or accident to equipment or machinery, wars, police actions, terrorism, embargos, and any other causes that are not reasonably within the control of the SELLER. If the delay is the result of PURCHASER'S action or inaction, then in addition to an adjustment in time, SELLER shall be entitled to reimbursement of costs incurred to maintain its schedule.

21. **INDEPENDENT CONTRACTOR.** It is expressly understood that SELLER is an independent contractor, and that neither SELLER nor its principals, partners, parents, subsidiaries, affiliates, employees or subcontractors are servants, agents, partners, joint ventures or employees of PURCHASER in any way whatsoever.

22. **SEVERABILITY.** Should any portion of this Agreement be held to be invalid or unenforceable under applicable law then the validity of the remaining portions thereof shall not be affected by such invalidity or unenforceability and shall remain in full force and effect. Furthermore, any invalid or unenforceable provision shall be modified accordingly within the confines of applicable law, giving maximum permissible effect to the parties' intentions expressed herein.

23. **CHOICE OF LAW, CHOICE OF VENUE.** This Agreement shall be governed and construed in accordance with the laws of the State of Utah, without regard to its rules regarding conflicts or choice of law. The parties submit to the jurisdiction and venue of the state and federal courts located in Salt Lake City, Utah.

24. **ASSIGNMENT.** PURCHASER shall not assign or transfer this Agreement without the prior written consent of the SELLER. Any attempt to make such an assignment or transfer shall be null and void. SELLER shall have the authority to assign, or otherwise transfer, its rights and obligations in connection with this Agreement, in whole or in part, upon prior written notice to PURCHASER.

25. **LIMITATION ON LIABILITY TO THE EXTENT PERMISSIBLE BY LAW, SELLER SHALL HAVE NO FURTHER LIABILITY IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF THE COST OF CORRECTING ANY DEFECTS, OR IN THE ABSENCE OF ANY DEFECT, IN EXCESS OF THE VALUE OF THE PRODUCTS SOLD HEREUNDER, NOTWITHSTANDING ANY LIABILITIES OR RESPONSIBILITIES ASSUMED BY SELLER HEREUNDER, SELLER SHALL IN NO EVENT BE RESPONSIBLE TO PURCHASER OR ANY THIRD PARTY, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR LOSS OF ANTICIPATED PROFITS, LOSS BY REASON OF PLANT SHUTDOWN, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, SERVICE INTERRUPTIONS, COST OF PURCHASED OR REPLACEMENT POWER, COST OF MONEY, LOSS OF USE OF CAPITAL OR REVENUE OR ANY OTHER INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSS OR DAMAGE, WHETHER ARISING FROM DEFECTS, DELAY, OR FROM ANY OTHER CAUSE WHATSOEVER.**

Revision Date - September 2010

CITY OF PEORIA, ARIZONA
A Municipal Corporation

Dan Zenko, Materials Manager
City of Peoria

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney
City of Peoria

ATTESTED BY:

Rhonda Geriminsky, City Clerk
City of Peoria

Date

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 14C

Date Prepared: August 18, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Glenn Jones, Emergency Management and Preparedness Coordinator

THROUGH: Bobbie Ruiz, Fire Chief and Rick Picard, Deputy Fire Chief

SUBJECT: Arizona Mutual Aid Compact

Purpose:

This is a request for City Council to adopt the amended Arizona Mutual Aid Compact and resolution.

Background/Summary:

The purpose of this Mutual Aid Compact is to define the emergency management terms and procedures for the participating parties which will be used for dispatching mutual aid assistance to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements.

Previous Actions:

This Compact was previously approved by Council on November 20, 2010 and signed by Mayor Bob Barrett.

Options:

- A: To adopt the amended Arizona Mutual Aid Compact**
- B: To not approve the amended Arizona Mutual Aid Compact**

Staff's Recommendation:

Discussion and possible action to adopt the amended Arizona Mutual Aid Compact which is based on A.R.S. 26-308. This Compact provides that each incorporated city of the state may appropriate and expend funds, execute contracts and obtain equipment, materials and supplies for emergency management purposes thus, allowing a statewide sharing of deployable

resources. This Compact currently has 9 counties, 4 tribal nations, 15 cities and towns and 18 other jurisdictions.

Fiscal Analysis:

None

Narrative:

Upon adoption of the Mutual Aid Compact and resolution, the Office of Emergency Management will send a copy to the Arizona Departments of Emergency Management and Military Affairs.

Exhibit(s):

Exhibit 1: Arizona Mutual Aid Compact

Exhibit 2: Resolution

Contact Name and Number:

Bobby Ruiz, Fire Chief – 623-773-7380

ARIZONA MUTUAL AID COMPACT

This Compact is made and entered into by and among the signatory political jurisdictions within the State of Arizona and the Arizona Department of Emergency and Military Affairs.

Recitals

WHEREAS, one or more parties to this Compact may find it necessary to utilize all of their own resources to cope with emergencies and may require the assistance of another party or other parties; and,

WHEREAS, it is desirable that all resources of political subdivisions, municipal corporations, tribes and other public agencies be made available to respond to such emergencies; and,

WHEREAS, it is desirable that each of the parties hereto should assist one another when such emergency occurs by providing such resources as are available and needed including, but not limited to, fire, police, medical and health, environmental, communication, and transportation services to cope with the problems of response and,

WHEREAS, it is desirable that a compact be executed for the interchange of such mutual aid; and,

WHEREAS, it is desirable to utilize this agreement in exercising adopted emergency plans; and,

WHEREAS, it is desirable that the manner of financing of such cooperative undertakings be resolved in advance of such emergency;

NOW, THEREFORE, IT IS HEREBY AGREED by and between each and all of the signatories hereto as follows:

COMPACT

1. Purpose.

The purpose of this Compact is to define for the participating parties the emergency management terms and procedures which will be used among participating parties for dispatching mutual aid assistance to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements. Contracting authority for political subdivisions of Arizona for this Compact is based upon A.R.S. § 26-308 which provides that each county and incorporated city and town of the state may appropriate and expend funds, make contracts and obtain and distribute equipment, materials and supplies for emergency management purposes. Tribal contracting authority will be in accordance with each Tribe's laws. Special District authority will be in accordance with their respective laws. Public education district authority is based on A.R.S. § 15-342(13) and A.R.S. § 11-952. This Agreement shall be construed in accordance the laws of the State of Arizona.

2. Scope.

The Scope of this Compact is to (1) provide the procedures to notify the Providing Parties of the need for emergency assistance; (2) to identify available resources; and, (3) to provide a mechanism for compensation for resources.

3. Definitions.

- **Automatic Mutual Aid** means the automatic dispatch and response of requested resources without incident specific approvals. These agreements are usually basic contracts; some may be informal accords.
- **Backfill** means replacement of the Requesting Party's personnel who perform the regular duties of other personnel while they are performing eligible emergency work.
- **Compact** means this document, the Arizona Mutual Aid Compact (AZMAC).
- **Director** is the Director of the Department of Emergency and Military Affairs (DEMA).
- **Emergency** or **Emergencies** means any disaster, emergency, or contingency situation which requires a collaborative effort among multiple Jurisdictions.
- **Exercise** is the exercising of adopted emergency plans utilizing the Homeland Security Exercise and Evaluation Program (HSEEP)
- **Jurisdiction** means an entity, including Political Subdivisions and tribal governments, which (1) has the authority to act, within a defined geographical area especially in times of emergency and (2) is a party to this Compact.

- **Local Mutual Aid** are agreements between neighboring jurisdictions or organizations that involve a formal request for assistance and generally cover a larger geographic area than automatic mutual aid.
- **Political Subdivision** means any county, incorporated city or town, fire district, or public education district, irrigation, power, electrical, agricultural improvement, drainage, and flood control districts, and other tax levying public improvement districts.
- **Providing Party** means the Jurisdiction providing aid in the event of an emergency.
- **Requesting Party** means the Jurisdiction requesting aid in the event of an Emergency.
- **Self-deployed** means to respond to an emergency without being requested by the Requesting Party.

4. **Guiding Policy.**

- Arizona Revised Statute (A.R.S.), Title 26, Military Affairs and Emergency Management.
- Arizona Administrative Code (A.A.C.), Title 8, Emergency and Military Affairs.
- National Incident Management System (NIMS), 2008

5. **Procedures for Requesting Assistance.**

A Requesting Party which needs assistance in excess of its own resources and existing automatic mutual aid or local mutual aid due to an emergency is authorized to request assistance from any party to this Compact. However, when making such requests, consideration shall be given to, and requests made, based on, but not limited to, the geographical proximity of other jurisdictions with that of the jurisdiction requesting assistance. All requests for assistance from the State must be coordinated through the Requesting Party's county emergency operations center, or tribal emergency operations center (whichever is applicable).

Requests should specify what the emergency is, what resources are needed and the estimated period of time during which such mutual aid shall be required, if known. Please use the Resource Request form provided in Appendix A.

6. **Providing Party's Assessment of Availability of Resources and Ability to Render Assistance.**

Subject to the terms of this Compact, the Providing Party shall make reasonable efforts to assist the Requesting Party. In all instances, the Providing Party shall render such mutual aid as it is able to provide consistent with its own service needs at the time, taking into

consideration the Providing Party's existing commitments within its own jurisdiction. The Providing Party shall be the sole judge of what mutual aid it has available to furnish to the Requesting Party pursuant to this Compact.

7. Implementation Plan.

Each party should develop an emergency operations plan that includes a process to provide for the effective mobilization of its resources, both public and private, including acceptance of mutual aid to provide or receive assistance under this Compact.

8. Contact List.

Each Party shall develop a contact list as outlined in Appendix B, which shall be provided to the Director for distribution to all other parties to this Compact.

9. Reimbursement Procedures between Parties.

If the Providing Party desires reimbursement for the assistance they are providing, the Requesting Party shall reimburse the Providing Party for all costs incurred in the mutual assistance, whether an incident has been declared an emergency or not. The Providing Party must declare its intent to seek reimbursement as part of their response to the Requesting Party's request for assistance (see Appendix A: Resource Request forms). The Providing Party and the Requesting party shall agree upon allowable costs for mutual assistance prior to the dispatch of any mutual assistance resources. Unless otherwise negotiated by the parties involved, the parties may reference the state allowable costs as defined in A.A.C. Title 8 (as may be amended from time to time). If the assistance is authorized and accepted, the Requesting Party shall reimburse the Providing Party all allowable costs of labor, equipment, and materials that have actually been expended during the execution of the mission assignment, after receipt of an itemized voucher and documentation is received.

If there has been a declaration of emergency from the Governor and/or President, the Requesting Party may be eligible for reimbursement for these mutual aid costs under the state or federal declaration of emergency. See item 10.

10. Reimbursement Procedures from the State.

If the Governor and/or President have declared an emergency, the Requesting Party can prepare an itemized voucher and documentation of all paid allowable costs including all the cost of the mutual aid resources reimbursed to any Providing Parties under this Compact, for submittal to the State for consideration for reimbursement in accordance with A.A.C. Title 8 (as may be amended from time to time). As per A.A.C. Title 8, R8-2-301, sub-parts 1, 12 & 15, only state agencies and political subdivisions are eligible to receive reimbursement under a Governor's Declaration. Any Tribal Nations as the Requesting Party would need to seek reimbursement under a Presidential Declaration. Any Tribal Nations as the Providing Party

would seek reimbursement from the Requesting Party as outlined in Item 9.

The state is not liable for any claim arising from an emergency for which the applicant receives funds from another source (A.A.C. Title 8, R8-2-312).

Self-deployed resources will not be reimbursed.

11. Personnel Compensation and Insurance.

The Requesting Party and the Providing Party shall be responsible for all compensation and insurance coverage of their respective employees and equipment.

12. Immunity.

The parties shall have such immunity as provided by applicable state, federal or tribal law.

13. Indemnification.

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. This compact is between Governmental entities. Should a signatory to this agreement use a contractor for any purpose, said contractor would be required to abide by ADOA Risk Management insurance requirements which are attached as Appendix C.

14. Term.

This Compact shall be effective on the date it is recorded with the Secretary of State. Except as otherwise provided in this Compact, this Compact shall terminate ten years after the effective date. This Compact, upon mutual consent of the parties may be extended for a period of time not to exceed 10 years. Any modification or time extension of this Compact shall be by formal written amendment and executed by the parties hereto.

15. ADA.

Each party shall comply with applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 United States Code. 12101-12213) and all applicable federal regulations under the Act, including 28 Code of Federal Regulation Parts 35 and 36.

16. Non-Discrimination.

To the extent of the law the Parties shall comply with Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, or national origin not mentioned in Order shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

17. Compliance with Laws.

Each party shall comply with all federal, tribal, state and local laws, rules, regulations, standards and Executive Orders, as applicable, without limitation to those designated within this Compact. Any changes in the governing laws, rules and regulations during the terms of this Compact shall apply but do not require an amendment.

18. Worker's Compensation.

Each Party herein shall comply with the provisions of A.R.S §23-1022(E) by posting the public notice required. As provided for in A.R.S. §23-1022(D), an employee of a public agency who works under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to a specific intergovernmental agreement or contract entered into between the public agencies is deemed to be an employee of both public agencies. However, the primary employer is solely liable for the payment of Workers' Compensation benefits. As such, each Party shall maintain Workers' Compensation insurance coverage on all of its own employees providing services pursuant to this agreement.

19. Insurance.

Each Party shall bear the risk of its own actions, as it does with all its operations, and shall determine for itself an appropriate level of insurance coverage and maintain such coverage. Nothing in this Agreement shall be construed as a waiver of any limitation on liability that may apply to a Party.

20. Non-appropriation.

Every payment obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the Parties at the end of the period for which funds are

available. No liability shall accrue to the Party in the event this provision is exercised, and neither Party shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

21. No Third Party Beneficiaries.

Nothing in the provisions of this Compact is intended to create duties or obligations to or rights in third parties not parties to this Compact or affect the legal liability of any party to the Compact by imposing any standard of care different from the standard of care imposed by law.

22. Entire Compact.

This document constitutes the entire Compact between the parties pertaining to the subject matter hereof. This Compact shall not be modified, amended, altered or extended except through a written amendment signed by the parties and recorded with the Arizona Secretary of State or Tribal government as appropriate.

23. Jurisdiction.

Nothing in this Compact shall be construed as otherwise limiting or extending the legal jurisdiction of any party. Nothing in this Compact is intended to confer any rights or remedies to any person or entity that is not a party.

24. Conflict of Interest.

The requirements of A.R.S. § 38-511 apply to this Agreement. The Parties may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Party is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of Party with respect to the subject matter of this Agreement.

25. Supervision and Control.

Management of an emergency shall remain with the jurisdiction in which the emergency occurred. Supervision and control of Providing Parties' personnel and equipment shall be in accordance with National Incident Management System. The Requesting Party will be responsible for providing supplies and services, such as food, shelter, gasoline and oil, for on-site use of equipment and for the personnel providing assistance. All equipment and personnel used pursuant to this Compact shall be returned to the Providing Party upon being released by the Requesting Party or on demand of the Providing Party for such return.

26. Severability: Effect on Other Agreements.

It is expressly understood that this Compact shall not supplant existing agreements between some of the parties, which do provide for the exchange or furnishing of certain types of services on a compensated basis.

27. Severability.

If any provision of this Compact is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent permitted by law.

28. Responsibility of the Department of Emergency and Military Affairs.

Nothing within this Compact limits or restricts the duties and obligations the State of Arizona may have to respond to the emergency of any party.

29. Effective Date.

This Compact shall become effective as to each party when adopted by resolution and executed by the governing body of the jurisdiction, and shall remain operative and effective as between each and every party that has heretofore or hereafter executed this Compact, until participation in this Compact is terminated by the party. The termination by one or more of the parties of its participation in this Compact shall not affect the operation of this Compact as between the other parties thereto. The Director shall identify on their website, with updates as needed, all parties signatory to this Compact.

30. Execution Procedure.

Execution of this Compact shall be as follows:
This Compact, which will be designated as "ARIZONA MUTUAL AID COMPACT," shall be executed in counterparts by the governing body of each party. Upon execution, the counterpart will be filed with the Secretary of State and the Tribal government as applicable and be provided to the Director. This Compact will be effective between all parties who execute this Compact even if it is not executed by all eligible jurisdictions.

31. Termination.

Termination of participation in this Compact may be effected by any party as follows:

Notice of termination will be given to the Director 20 days prior to termination.

Any party may, by resolution of its governing body, terminate its participation in this Compact and file a certified copy of such resolution with the Secretary of State or the Tribal government, with a copy to be provided to the Director.

The parties to this Compact understand and acknowledge that this Compact is subject

to cancellation by any party pursuant to A.R.S. § 38-511 or applicable Tribal law.

32. Dispute Resolution.

The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

33. Record Retention

Pursuant to A.R.S. §§ 35-214 and 35-215, the Parties shall retain all records relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State of Arizona at reasonable times.

Appendix A

ARIZONA MUTUAL AID COMPACT (AZMAC) EMERGENCY MANAGEMENT RESOURCE REQUEST

Date of Request	Requesting Agency Tracking Number
Requesting Organization	Organization Point of Contact
	Work Cell E-Mail
Requested Resource Type/Kind	Quantity Unit of Measure Date/Time Required

Resource must come with:

- | | | | |
|--------------------------------------|----------------------------------|--------------------------------------|--------------------------------------|
| <input type="checkbox"/> Fuel | <input type="checkbox"/> Meals | <input type="checkbox"/> Operator(s) | <input type="checkbox"/> Water |
| <input type="checkbox"/> Maintenance | <input type="checkbox"/> Lodging | <input type="checkbox"/> Power | <input type="checkbox"/> Transporter |

Mission

Special Instructions

Request Forwarded to

Contact Name
Organization/Agency
Vendor
Date/Time of Submission

Request Approved by

Date

Appendix A

**ARIZONA MUTUAL AID COMPACT (AZMAC)
EMERGENCY MANAGEMENT RESOURCE REQUEST**

Date of Request	Assisting Agency Tracking Number
Assisting Organization	Organization Point of Contact
	Work Cell E-Mail
Requested Resource Type/Kind	Quantity Unit of Measure Date/Time Required

Offer

Travel Costs Equipment Costs Commodities
--

Personnel

F. Name	L. Name	Phone	E-Mail	Regular Salary/ Hourly Rate	Regular Fringe Benefit Hourly Rate	Overtime Salary/ Hourly Rate	Overtime Fringe Benefit Hourly Rate

Estimated Resource Cost

Providing Party Agency Representative Signature and Date

Representative Name and Title (Print)

Signature & Date

Requesting Party Agency Representative Signature and Date

Representative Name and Title (Print)

Signature & Date

Appendix B

**ARIZONA MUTUAL AID COMPACT (AZMAC)
POINTS OF CONTACT**

Date:

Name of Jurisdiction:

Mailing Address:

City, State, Zip Code:

Authorized Representatives to Contact for Mutual Aid Assistance

	Primary Contact	1 st Alternate	2 nd Alternate
Name	Glenn Jones	Rick Picard	Bobby Ruiz
Title	Emergency Management & Safety Coordinator	Deputy Fire Chief/ Emergency Management	Fire Chief
24-Hr Phone No.	(602) 882-3513	(602) 809-0369	(602) 615-6517
Address	8401 West Monroe Street Peoria, Arizona 85345	8401 West Monroe Street Peoria, Arizona 85345	8401 West Monroe Street Peoria, Arizona 85345
Day Phone No.	(623) 773-5207	(623) 773-8216	(623) 773-7380
Night Phone No.	(602) 882-3513	(602) 809-0369	(602) 615-6517
Fax No.			
Email	Glenn.Jones@Peoriaaz.gov	Rick.Picard@Peoriaaz.gov	Bobby.Ruiz@Peoriaaz.gov

Appendix C

ARIZONA MUTUAL AID COMPACT (AZMAC) USE OF A CONTRACTOR

In addition, each signatory shall cause its contractor(s) and subcontractors, if any, to defend, indemnify, and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of signatory's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable."

Insurance Requirements for Governmental Parties:

None.

Insurance Requirements for Any Contractors Used by a Party to the Intergovernmental Agreement:

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional

insurance.

A. Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$ 50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed (Blanket Endorsements are not acceptable) to include the following additional insured language: “The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.” Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

b. Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the “State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees” for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed (Blanket Endorsements are not acceptable) to include the following additional insured language: “The State of Arizona, and its departments, agencies, boards,

commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor". Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

- b.** Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

- c.** Policy shall contain a severability of interest provision.

3. Worker's Compensation and Employers' Liability

• Workers' Compensation	Statutory
• Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- a.** Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.
- b.** This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. Additional Insurance Requirements: The policies are to contain, or be endorsed (Blanket Endorsements are not acceptable) to contain, the following provisions:

- 1.** The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the

Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S § 41-621 (E).

2. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of its Contract with the other governmental entity(ies) party to the IGA.
- C. Notice of Cancellation:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Department and shall be sent by certified mail, return receipt requested.
- D. Acceptability of Insurers:** Contractors insurance shall be placed with companies licensed in the State of Arizona. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. Verification of Coverage:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements (Blanket Endorsements are not acceptable) are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. Subcontractors:** Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona

separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

- G.** Approval: Any modification or variation from the *insurance requirements* in any Intergovernmental Agreement must have prior approval from the State of Arizona Department of Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

- H.** Exceptions: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

RESOLUTION NO. 2015-68

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA,
AUTHORIZING THE CITY TO ENTER INTO THE ARIZONA
MUTUAL AID COMPACT.

WHEREAS, on October 6, 2015 the City of Peoria entered into an Arizona Mutual Aid Compact with the State of Arizona and the Arizona Department of Emergency and Military Affairs for the purpose of the parties assisting one another when emergencies occur by sharing resources;

WHEREAS, the parties have benefitted from this agreement and desire to enter into a new Arizona Mutual Aid Compact for the same purposes; and

WHEREAS, Section 29 of the Arizona Mutual Aid Compact requires that the governing body for each signatory adopt a Resolution authorizing the body to enter into the agreement; and

WHEREAS, the Mayor and City Council determine that it is in the best interests of the City of Peoria to enter into the Arizona Mutual Aid Compact.

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

Section 1. The City of Peoria, Arizona is authorized to enter into the Arizona Mutual Aid Compact with the State of Arizona and the Arizona Department of Emergency and Military Affairs for the purpose of the parties assisting one another when emergencies occur by sharing resources.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 6th day of October, 2015.

The following votes were cast pertaining to this resolution:

AYES:

NAYS:

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky
City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp
City Attorney

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 15C

Date Prepared: September 22, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

THROUGH: Susan Daluddung, Deputy City Manager

FROM: Julie Ayers, Human Resources Director

**SUBJECT: Nationwide Retirement Solutions Post Employment Health Plan, Peoria Fire
Fighters Association**

Purpose:

This is a request for City Council to discuss and take possible action to terminate the Nationwide Post Employment Health Plan #0038662001 and to roll over proceeds into the ICMA-RC Retiree Health Savings Plan #800856.

Background/Summary:

The Peoria Fire Fighters Association (PFFA) Memorandum of Understanding authorizes the City to provide a Retiree Health Savings Account. Currently the City maintains an account with Nationwide and also an account with ICMA-RC. The membership of the PFFA have voted to consolidate the two plans by terminating the Nationwide PEHP plan and rolling the distribution into the ICMA-RC RHS plan in order to simplify the deferred compensation offerings and to reduce administrative fees paid by employees. The termination of the Nationwide PEHP plan includes notification to Nationwide and to ICMA-RC regarding the City's intent. The City's Employer Participation Agreement with Nationwide provides that the City may close the plan at any time upon written notification to Nationwide. ICMA-RC will work with the City to map Nationwide funds to like or similar funds within the ICMA-RC RHS plan. Notification will be provided to all impacted current and former employees.

Options:

- A. (a) Adopt Resolution 2015-102, approving the termination of the Peoria Fire Fighters Association's Post Employment Health Plan with Nationwide Retirement Solutions; and (b), authorize the City Manager to execute documentation for the distribution of funds to the International City Management Association Retirement Corporation, Retiree Health Savings Plan.
- B. No action

Staff's Recommendation:

Request authorization by City Council to adopt resolution 2015-102, to terminate Nationwide PEHP Plan #0038662001 and to distribute the proceeds to ICMA-RC RHS plan #800856.

Fiscal Analysis:

n/a

Exhibit(s):

Exhibit 1: Letter from PFFA Requesting Action

Exhibit 2: City Council Resolution #2015-102

Contact Name and Number: Julie Ayers, Human Resources Director, 623-773-7580

United Fire Fighters Association



61 E. COLUMBUS AVE. • SUITE 200 • PHOENIX, AZ 85012 • (602) 277-1500 • FAX (602) 277-0003



Phoenix LOCAL 493

RECEIVED

MAR - 2 2015

City of Peoria H/R

To: Human Resource Department

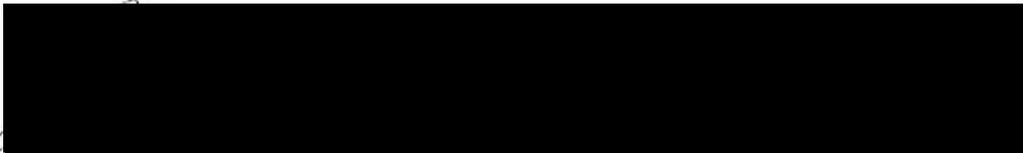
From: Local 493 Peoria Chapter

Subject: Retirement Health Savings Account

Date: March 2 2015

By majority vote, the Peoria Firefighters have elected ICMA to be the sole provider for the retirement health savings account.

Respectfully,



Joseph G. Manning

RESOLUTION NO. 2015-102

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AUTHORIZING THE TERMINATION OF AN EMPLOYER PARTICIPATION AGREEMENT WITH NATIONWIDE RETIREMENT SOLUTIONS, CURRENTLY PROVIDING ADMINISTRATION OF A POST EMPLOYMENT HEALTH BENEFIT PROGRAM FOR CERTAIN CITY EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO EXECUTE CERTAIN TRUST DOCUMENTS ON BEHALF OF THE CITY FOR TRANSFER OF TRUST PROCEEDS INTO AN INTEGRAL PART TRUST ADMINISTERED BY THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC)

WHEREAS, the City of Peoria has employees rendering valuable services; and

WHEREAS, the City of Peoria has long provided for post-employment health benefits for certain eligible employees (Benefits); and

WHEREAS, since October 2003, the City of Peoria has used a plan and trust offered by Nationwide Retirement Solutions (Nationwide) in connection with the Benefits;

WHEREAS, since July 2008, the City of Peoria has also used a plan and trust offered by ICMA-RC in connection with the Benefits;

WHEREAS, since March, 2015, with respect to benefits for eligible employees within the Peoria Fire Fighters Association (PFFA), City of Peoria determined by majority vote of their membership that it would be preferable to use an Integral Part Trust and the Services of ICMA-RC ;

WHEREAS, Nationwide has stated that the IRS will not allow them to transfer funds to an integral part trust and would only be able to transfer funds into a trust that constitutes a Voluntary Employee Benefit Association (VEBA trust);

WHEREAS, in order to transfer funds from the Nationwide VEBA trust to the integral trust offered by ICMA-RC, it is necessary to terminate the Nationwide VEBA trust for certain eligible employees;

WHEREAS, in order to effect the transfer of funds, The City of Peoria will notify Nationwide that certain employee groups wish to cease participating in the Nationwide Plan and Trust and that proceeds from the trust will be transferred to the integral trust offered by ICMA-RC.

NOW, THEREFORE, BE IT RESOLVED, the the City of Peoria, Mayor and Council approves the transfer of funds from the Nationwide trust and plan to the ICMA-RC trust and plan, to be adopted and executed at an administratively feasible time following Nationwide's acknowledgement of the termination of participation.

BE IT FURTHER RESOLVED, the the Plan Administrator for the ICMA-RC plan shall be the coordinator and contact for the Plan and has the authority to act for the Plan and the Mayor and Council with respect to the ministerial matters concerning the Plan.

PASSED AND APPROVED by the Mayor and Council of the City of Peoria, Arizona on this 6th day of October, 2015.

Cathy Carlat, Mayor

Rhonda Geriminsky
City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp
City Attorney

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 16C

Date Prepared: September 10, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager
FROM: William Mattingly, Public Works-Utilities Director
THROUGH: Jeff Tyne, Deputy City Manager
SUBJECT: Adoption of 2015 Integrated Water Utilities Master Plan

Purpose:

Possible action by the City Council to adopt the 2015 Integrated Water Utilities Master Plan.

Background/Summary:

The Integrated Water Utilities Master Plan (Utilities Master Plan) represents a two year effort by the Public Works – Utilities Department and various other departments and external experts to update the Utilities Master Plans.

The City of Peoria has Water, Wastewater, Reclaimed Water and Water Resource Master Plans which are updated on a five-year cycle. These plans directly support the City's adopted General Plan and outline the strategies and key infrastructure needed to support the utility needs of both current and future residents of the City.

As a result of many years of thoughtful policy, planning and investment, the City of Peoria has a robust water system and the City is well positioned to meet current and future demands. The delivery of water utility services is continuously evolving and changing. Water supplies in Arizona are affected by state and federal regulations. There are increasing demands for limited water resources which makes it necessary to remain active and informed on current water issues. In addition, water quality regulations affecting the treatment and testing of water are constantly changing.

The recently completed Utility Master Plan (May 2015) is an in-depth analysis of the City's current position and future needs based on the best information available. The Utility Master Plan is different than prior analyses in that this plan is the result of simultaneously planning for water, wastewater, reclaimed water, and water resources elements. In the past, these master plans were prepared separately and sequentially. The current plan integrates all four components of Peoria's utility services into a single, cohesive, and comprehensive planning

document that will serve as a guide into the future. The master plan identifies the infrastructure that is necessary to support future growth.

Options:

A: The Mayor and Council could act to adopt the Utilities Master Plan.

B: The Mayor and Council could decline to adopt the Utilities Master Plan.

Prior Actions:

A Study Session was conducted on September 8, 2015 to present and discuss the Utilities Master Plan.

Staff's Recommendation:

Staff recommends that the Council adopt the 2015 Utilities Master Plan.

Fiscal Analysis:

The adopted Utilities Master Plan will serve as the basis for future Capital Improvement Projects.

Contact Name and Number: William Mattingly, Public Works-Utilities Director, (623) 773-5151

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 17C

Date Prepared: August 19, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Andrew Granger, P.E., Development and Engineering Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Maintenance Improvement District No. 1183, Trilogy West Phase 2-Parcel C43, Upcountry Way and Dixileta Parkway

Purpose:

This is a request for City Council to approve a Petition for Formation, adopt the Resolution of Intention, and Resolution Ordering the Improvements for a proposed Maintenance Improvement District No. 1183, Trilogy West Phase 2 - Parcel C43, Upcountry Way and Dixileta Parkway, as well as authorize the City Clerk to record the Maintenance Improvement District with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil and landscape/irrigation plans must be approved by the City of Peoria (City) prior to recordation of the Maintenance Improvement District;
2. The final plat for the subdivision must be approved by City Council and recorded with the Maricopa County Recorder's Office prior to recordation of the Maintenance Improvement District; and
3. The developer must provide a fully executed Petition, Waiver and Consent to Formation of a Municipal Improvement District.

Background/Summary:

The purpose of the Maintenance Improvement District is for the operations, maintenance, repair and improvements to landscaping adjacent to designated public roadways and parkways within the proposed district, as well as drainage and retention within each proposed district. Until such time as the Homeowner's Association fails, and the Council directs City staff to assume maintenance responsibility, the additional charge to the residents will show as \$0.00 on their property tax bills.

Pursuant to the provision of A.R.S. 48-574, et. seq., the Mayor and Council are empowered to adopt a Resolution ordering the formation of a Maintenance Improvement District. A Petition

and Resolution of Intention are attached for formation of City of Peoria Maintenance Improvement District No. 1183, Trilogy West Phase 2 - Parcel C43, Upcountry Way and Dixileta Parkway. In this special situation, in which all of the property owners have presented a petition for formation, the ordinary publication and protest period are not required by law, and the Council may then adopt a Resolution ordering the improvements when necessary once the Resolution of Intention is first adopted. The Resolution Ordering the improvements finalizes the formation of the Maintenance Improvement District process.

Under Arizona State law, commencing in October 2016, the residents will receive an additional charge on their property tax bill for maintenance of the landscape, irrigation and drainage improvements, located adjacent to and within the public rights-of-way and tracts. However, until such time as the Homeowner's Association fails, and the Council directs City staff to assume maintenance responsibility, the additional charge to the residents will be \$0.00. In accordance with State statute, an assessment diagram and map, listing each parcel of property within the district has been prepared.

Previous Actions:

The final plat for Trilogy West Phase 2 - Parcel C43 was approved by the City on August 26, 2015 and recorded with the County.

Options:

A: The Maintenance Improvement District has been approved through the Development and Engineering Department. An option would be to not accept the proposed Maintenance Improvement District; although it should be noted that not approving the Maintenance Improvement District will prevent any additional charges from being assessed on the property tax bills for those properties located within the District, and any and all fees incurred by the City of Peoria as a result of assuming the maintenance responsibility would be paid using City of Peoria funds.

B: The other option would be to formally approve the Maintenance Improvement District to allow for the taxing district to be recorded and in place in the event the Homeowner's Association fails.

Staff's Recommendation:

Staff recommends the approval and subsequent recordation of the attached Petition for Formation, Resolution of Intention to Create, and Resolution Declaring Intention to Order.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Maintenance Improvement District. However, the City would incur the additional charges associated with the maintenance

responsibilities should the taxing district not be approved and recorded, and the Homeowner's Association fail.

Narrative:

The acceptance of this Maintenance Improvement District will allow any additional charges associated with the maintenance responsibilities should the Homeowner's Association fail, to be assessed on the property tax bill for the properties located within the District.

Exhibit(s):

Exhibit 1: Petition for Formation

Exhibit 2: Proposed Resolution of Intention to Create

Exhibit 3: Proposed Resolution Declaring Intention to Order

Contact Name and Number: William Beloit, Engineering Technician II, x7573

PETITION, WAIVER AND CONSENT TO FORMATION
OF A MUNICIPAL IMPROVEMENT DISTRICT
BY THE CITY OF PEORIA

[1183]

MID#

[Trilogy West, Phase 2, Parcel C43]
Subdivision Name

To: Honorable Mayor and Council
City of Peoria, Arizona

Pursuant to Arizona Revised Statutes, Sections 48-574 and 48-575, the undersigned property owner respectfully petitions the City Council of the City of Peoria, Arizona (City Council) to order the formation of a Municipal Improvement District under Arizona Revised Statutes, Title 48, Chapter 4, Article 2. In support of this petition, the undersigned agrees to waive certain rights under the Arizona Improvement District Law and to consent to the formation and completion of the District.

1. Area of District. The proposed district is described by a map and by a legal description on Exhibit "A" that is attached hereto and incorporated herein by reference. The proposed district consists of 22.234 acres and is entirely within the corporate boundaries of the City of Peoria.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed district.
3. Purpose. The district is proposed to be formed for the purpose of the operation, maintenance, repair and improvements for landscape maintenance adjacent to designated public roadways and parkways within the proposed district and drainage and retention within each proposed district.
4. Public Convenience and Necessity. The necessity for the proposed district is for the operation, maintenance, repair and improvements for landscape maintenance adjacent to designated streets and parkways within the proposed district by the levying of special assessments in the proposed district.
5. Waiver and Consent. The petitioners with full knowledge of their rights being waived hereunder, hereby expressly waive:
 - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work;
 - (b) Any necessity for publication and posting of the Resolution of Intention and the Notice of Proposed Improvements pursuant to A.R.S. §48-578;
 - (c) All protest rights whatsoever under A.R.S. §48-579(A) and (B), which provide for protests against the work; and
 - (d) All objections to the filing of and adoption by the City of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.

Further, the improvements described above are of more than local or ordinary public benefit.

In Witness whereof the parties have executed this Petition and Waiver Agreement as of the 8th day of June 2015.

<u>Vistancia West Construction, LP</u> Print Property Owner Name <u>Joan Scarbrough</u> Print Name <u>28620 N. El. Mirage Rd. St. Bios, Peoria AZ</u> Address [Redacted] 85383 Signature	Date: <u>6/8/15</u>	Property (Tax Parcel Numbers) <u>503-52-035</u>
<u>Vistancia West Construction LP</u> Print Property Owner Name <u>BERTRAND J. BAUER</u> Print Name <u>8800 N. Gainey Ctr Dr #370</u> Address [Redacted] Scottsdale AZ Signature 85258	Date: <u>6/8/15</u>	Property (Tax Parcel Numbers) <u>503-52-035</u>

Accepted and approved by:

CITY OF PEORIA, ARIZONA, an
ARIZONA MUNICIPAL CORPORATION

ATTEST:

By _____
Mayor

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

RESOLUTION NO. 2015-98

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO MAINTAIN LANDSCAPING INCLUDED WITHIN, NEAR AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE CITY OF PEORIA AS DESCRIBED HEREIN; ADOPTING PLANS FOR CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1183, TRILOGY WEST PHASE 2 - PARCEL C43, AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, declare that the Maintenance of the landscaping included within, near and adjacent to a parkway and related facilities in the District to be of more than local or ordinary public benefit, and further that the cost of said maintenance shall be assessed on a certain District; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, declare that the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities in the District is incidental to the maintenance and preservation of the parkway and related facilities, has aesthetic value, and maintains and increases the value of property within the District; and

WHEREAS, the City Council declares that the maintenance of landscaping included within and adjacent to a parkway and related facilities preserves and promotes the health, safety, and welfare of those citizens of the City of Peoria living within the District as well as preservation of the streets and parkways which may be adversely impacted by drainage and other water formations; and

WHEREAS, the City of Peoria declares that the maintenance of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens of the City living within the District; and

WHEREAS, the City Council declares that maintenance of landscaped drainage and other water control facilities and features within, near or adjacent to a parkway and related facilities tends to preserve the structural integrity of the parkway and mitigates flooding of adjacent areas and the structural integrity of the parkway and mitigates flooding of adjacent areas and the parkway by draining water to and from the parkway in furtherance of the health, safety and welfare of those citizens of the City of Peoria living within the District:

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA AS FOLLOWS:

Section 1. Definitions.

In this Resolution, the following terms shall have the following meanings:

"Assessment Diagrams" shall mean those duplicate diagrams of the property contained in the Assessment District is to be filed with the Clerk and approved by the Mayor and Council.

"Assessment District" shall mean the lots, pieces or parcels of land lying within the boundaries described on Exhibit B attached hereto and as shown on the map on file with the City Engineer.

"City" shall mean the City of Peoria, Arizona.

"City Council" or "Council" shall mean the Mayor and Council of the City.

"Clerk" shall mean the City Clerk.

"Engineer" shall mean City Engineer.

"Lots" shall mean all lots, pieces or parcels of land lying within the Assessment District.

"Parkways" shall mean those streets and rights-of-way which are designated in Exhibit B as "Parkways," and specifically those portions of Pedestrian Facilities, Parks, Retention, Detention and Storm Water Management Facilities included within or adjacent to the Assessment District.

"Plans and Specifications" shall mean the engineer's estimate for the Maintenance Improvement District No. 1183 filed with the Clerk prior to the adoption of this Resolution.

"Superintendent of Streets" shall mean the City Engineer.

Section 2. Declaration of Intention to Order an Improvement.

The public interest or convenience requires, and it is the intention of the Mayor and Council of the City of Peoria, Arizona, to order the following work, hereinafter "Work," to be performed, to wit:

The maintenance of all landscaping, including replacement of landscape materials, in the area generally described as follows:

SEE EXHIBIT "A", LEGAL DESCRIPTION OF CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1183

The Mayor and Council of the City of Peoria, Arizona designate as parkways, those areas set forth on Exhibit "B" Assessment Diagram in accordance with Title 48, Chapter 4, Article 2, Arizona Revised Statutes. The public interest and convenience require, and it is the intention of the City Council to order the Work adjacent to the designated parkways to be performed as stated herein. All items of the Work shall be performed as prescribed by the Plans and Specifications hereby

approved and adopted by the Council and on file in the Office of the City Engineer and no assessment for any lot shall exceed its proportion of the Estimate. The estimate of the cost and expenses of the work or improvements on file in the offices of the Superintendent of Streets and the Clerk of the City are hereby approved and adopted by the Mayor and Council of the City. In addition to the requirements of law, the procedures set forth in the City Code will be followed regarding acceptance of bids and setting tax levies. For purposes of this Resolution and of all resolutions, ordinances and notices pertaining to this Resolution, the improvement as herein described is hereby designated City of Peoria Maintenance Improvement District No. 1183.

Section 3. Determination of Need.

In the opinion of the City Council, the Work is of more than local or ordinary public benefit. The City Council hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

Section 4. Preparation of Assessment Diagrams.

The City Engineer is hereby authorized and directed to prepare duplicate diagrams (Assessment Diagrams) of the property contained within the Assessment District. The diagrams shall show each separate lot, numbered consecutively, the approximate area in square feet of each lot, and the location of the lot in relation to the work proposed to be done.

Section 5. Exclusion of Certain Property.

Any public street or alley within the boundaries of the Assessment District is hereby omitted from the assessment hereafter to be made. Any lot belonging to the United States, the State, a county, city, school district or any political subdivision or institution of the State or county, which is included within the Assessment District shall be omitted from the assessment hereafter made.

Section 6. Officers Not Liable.

In no event will the City of Peoria or any officer thereof be liable for any portion of the cost of said Improvement District nor for any delinquency of persons or property assessed.

Section 7. Annual Statement.

The City Council shall make annual statements and estimates of the expenses of the District which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all real and personal property in the District as provided in A.R.S. § 48-574 and amendments thereto.

Section 8. Statutory Authority.

The Work and all proceedings pertaining thereto shall be performed under the provisions of Title 48, Article 2, specifically Section 48-574, and all amendments thereto and pursuant to Article I, Section 3, (8) of the Peoria City Charter.

Section 9. Delegation of Authority.

The City Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications and the Contract Documents.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 6th day of October, 2015.

CITY OF PEORIA, an Arizona
municipal corporation

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

CERTIFICATION OF CITY ENGINEER

I hereby certify that I have read the description set out under the definition "Assessment District" and approve the same. I further certify that I have read the description set out under the definition "Work" and approve the same.

Andrew Granger, Development and
Engineering Director

CERTIFICATION OF CITY CLERK

I hereby certify that the above and foregoing Resolution No. 2015-98 duly passed by the Mayor and Council of the City of Peoria, Arizona at a regular meeting held on October 6, 2015 and that a quorum was present there and that the vote thereon was _____ ayes and _____ nays. _____ were no vote or absent.

City Clerk, City of Peoria

THAT PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MARICOPA COUNTY ALUMINUM CAP MARKING THE EAST QUARTER CORNER OF SAID SECTION 27, FROM WHICH THE 1/2" REBAR WITH CAP LS#22782 MARKING THE CENTER OF SAID SECTION 27 BEARS NORTH 89°43'03" WEST, A DISTANCE OF 2,634.31 FEET, BEING A POINT ON A 1,145.00 FOOT RADIUS CURVE, WHOSE CENTER BEARS NORTH 00°17'12" EAST;

THENCE WESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°10'29", A DISTANCE OF 183.35 FEET;

THENCE NORTH 80°32'19" WEST, A DISTANCE OF 152.14 FEET TO THE BEGINNING OF A TANGENT CURVE OF 1,255.00 FOOT RADIUS, CONCAVE SOUTHERLY;

THENCE WESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°10'44", A DISTANCE OF 201.05 FEET;

THENCE SOUTH 00°16'57" WEST, A DISTANCE OF 55.00 FEET TO A POINT ON THE EAST WEST MID-SECTION LINE;

THENCE NORTH 89°43'03" WEST, ALONG SAID EAST WEST MID-SECTION LINE. A DISTANCE OF 848.71 FEET;

THENCE NORTH 00°16'57" EAST, DEPARTING SAID MID-SECTION LINE, A DISTANCE OF 69.14 FEET;

THENCE NORTH 45°16'57" EAST, A DISTANCE OF 28.28 FEET;

PAGE 1 OF 3

TITLE: TRILOGY WEST C43 - M.I.D.

PREPARING FIRM: COE & VAN LOO CONSULTANTS, INC.

ADDRESS: 4550 NORTH 12TH STREET, PHOENIX, ARIZONA 85014

PHONE: 602-264-6831

FAX: 602-264-0928

THENCE NORTH $00^{\circ}16'57''$ EAST, A DISTANCE OF 88.07 FEET TO THE BEGINNING OF A TANGENT CURVE OF 24.50 FOOT RADIUS, CONCAVE SOUTHWESTERLY;

THENCE NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $35^{\circ}43'53''$, A DISTANCE OF 15.28 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE OF 60.50 FOOT RADIUS, CONCAVE EASTERLY;

THENCE NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $71^{\circ}27'45''$, A DISTANCE OF 75.46 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE OF 24.50 FOOT RADIUS, CONCAVE NORTHWESTERLY;

THENCE NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $35^{\circ}43'53''$, A DISTANCE OF 15.28 FEET;

THENCE NORTH $00^{\circ}16'57''$ EAST, A DISTANCE OF 49.13 FEET TO THE BEGINNING OF A TANGENT CURVE OF 455.50 FOOT RADIUS, CONCAVE SOUTHWESTERLY;

THENCE NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $26^{\circ}18'21''$, A DISTANCE OF 209.13 FEET;

THENCE NORTH $26^{\circ}01'23''$ WEST, A DISTANCE OF 237.63 FEET;

THENCE NORTH $71^{\circ}01'23''$ WEST, A DISTANCE OF 28.28 FEET;

THENCE NORTH $26^{\circ}01'23''$ WEST, A DISTANCE OF 57.14 FEET;

THENCE NORTH $18^{\circ}58'37''$ EAST, A DISTANCE OF 42.43 FEET;

THENCE NORTH $63^{\circ}58'37''$ EAST, A DISTANCE OF 69.00 FEET;

THENCE SOUTH $71^{\circ}01'23''$ EAST, A DISTANCE OF 42.43 FEET;

THENCE NORTH $63^{\circ}58'37''$ EAST, A DISTANCE OF 83.64 FEET;

THENCE NORTH $20^{\circ}14'32''$ EAST, A DISTANCE OF 28.90 FEET;

THENCE NORTH $66^{\circ}30'27''$ EAST, A DISTANCE OF 43.00 FEET;

THENCE SOUTH $23^{\circ}29'33''$ EAST, A DISTANCE OF 93.28 FEET;

THENCE NORTH $71^{\circ}10'37''$ EAST, A DISTANCE OF 86.47 FEET;

THENCE SOUTH $89^{\circ}43'03''$ EAST, A DISTANCE OF 597.92 FEET;

THENCE SOUTH $75^{\circ}50'02''$ EAST, A DISTANCE OF 59.63 FEET;

THENCE SOUTH $60^{\circ}44'17''$ EAST, A DISTANCE OF 41.94 FEET;

PAGE 2 OF 3

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PREPARING FIRM: COE & VAN LOO CONSULTANTS, INC.

ADDRESS: 4550 NORTH 12TH STREET, PHOENIX, ARIZONA 85014

PHONE: 602-264-6831

FAX: 602-264-0928

THENCE SOUTH 29°15'43" WEST, A DISTANCE OF 95.00 FEET TO A POINT ON A 221.50 FOOT RADIUS NON-TANGENT CURVE, WHOSE CENTER BEARS SOUTH 29°15'43" WEST;

THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°44'04", A DISTANCE OF 84.02 FEET;

THENCE SOUTH 79°12'41" EAST, A DISTANCE OF 30.55 FEET; THENCE SOUTH 28°17'43" EAST, A DISTANCE OF 43.01 FEET;

THENCE SOUTH 21°29'48" WEST, A DISTANCE OF 31.05 FEET TO A POINT ON A 221.50 FOOT RADIUS NON-TANGENT CURVE, WHOSE CENTER BEARS SOUTH 72°24'46" WEST;

THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 17°52'11", A DISTANCE OF 69.08 FEET;

THENCE SOUTH 00°16'57" WEST, A DISTANCE OF 12.50 FEET;
THENCE SOUTH 89°43'03" EAST, A DISTANCE OF 90.00 FEET;
THENCE SOUTH 35°57'38" EAST, A DISTANCE OF 169.47 FEET;
THENCE SOUTH 28°56'08" EAST, A DISTANCE OF 70.90 FEET;
THENCE SOUTH 16°20'05" EAST, A DISTANCE OF 201.34 FEET;
THENCE SOUTH 11°50'42" EAST, A DISTANCE OF 77.01 FEET;
THENCE SOUTH 21°11'39" EAST, A DISTANCE OF 34.04 FEET;

THENCE SOUTH 89°42'47" EAST, A DISTANCE OF 135.35 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;

THENCE SOUTH 00°13'07" WEST, ALONG SAID EAST LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 22.234 ACRES, MORE OR LESS.

PAGE 3 OF 3

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PREPARING FIRM: COE & VAN LOO CONSULTANTS, INC.

ADDRESS: 4550 NORTH 12TH STREET, PHOENIX, ARIZONA 85014

PHONE: 602-264-6831

FAX: 602-264-0928

EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA
CITY CLERK'S OFFICE
8401 W. MONROE STREET
PEORIA, AZ 85345

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING THE IMPROVEMENT CONSISTING OF AUTHORIZING THE MAINTENANCE OF LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITHIN APPURTENANT STRUCTURES AS SHOWN ON THE PLANS FOR THE IMPROVEMENT DISTRICT KNOWN AS CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1183, TRILOGY WEST PHASE 2 – PARCEL C43.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 6th day of October, 2015 the Mayor and Council of the City of Peoria adopted Resolution No. 2015-99; ordering the improvements of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together within appurtenant structures shown on the plans, within the corporate limits of the City and creating an Improvement District known as the City of Peoria Maintenance Improvement District No. 1183, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together within appurtenant structures, which includes a charge for the maintenance of landscaping and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Maintenance Improvement District No. 1183 may be obtained by contacting Mr. Andrew Granger, Development and Engineering Director, City of Peoria, Arizona, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this _____ day of _____, 2015.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

RESOLUTION NO. 2015-99

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE IMPROVEMENTS OF A CERTAIN AREA WITHIN THE CORPORATE LIMITS OF THE CITY AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1183, TRILOGY WEST PHASE 2 – PARCEL C43; PROVIDING THAT THE COST OF THE MAINTENANCE OF THE LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, SHALL BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, THAT:

SECTION 1. The public interest or convenience require and it is the intention of the Mayor and Council of the City of Peoria, Arizona to order the maintenance of landscaping within the proposed district and that the cost of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures be assessed upon a certain improvement district to be known as Peoria Maintenance Improvement District No. 1183.

The estimate of the cost and expenses for the maintenance of the landscaping on file with the Superintendent of Streets and the City Clerk is approved and adopted by the Mayor and Council of the City.

SECTION 2. The maintenance of the landscaping, therefore, in the opinion of the Mayor and Council of the City, are of more than local or ordinary public benefit, and are of special benefit to the respective lots, pieces and parcels

of land within the real property described herein. The Mayor and Council of the City make and order that the cost and expense for the maintenance of the landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures be chargeable upon a district to be known and designated as the City of Peoria Maintenance Improvement District No. 1183 and as described and bounded as set forth on Exhibits A and B attached, and declare that the district in the City benefited by the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures to be assessed, to pay the costs and expenses thereof in proportion to the benefits derived therefrom.

The City shall not assess the costs and expenses for the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures, which are for the general public benefit against the respective lots, pieces and parcels of land located within the boundaries of the City of Peoria Maintenance Improvement District No. 1183 and if a portion of the costs and expenses for the maintenance of landscaping is for the general public benefit, the City shall assess the boundaries of the City of Peoria Maintenance Improvement District No. 1183 only that portion of such costs and expenses which benefits the lots, pieces and parcels of land located within the boundaries of the City of Peoria Maintenance Improvement District No. 1183.

SECTION 3. The costs and expense for the maintenance of landscaping shall be made and all proceedings therein taken; that the Superintendent of Streets of the City shall post or cause to be posted notices thereof; that the City Clerk shall certify to the passage of this Resolution of Intention; that the Engineer shall prepare duplicate diagrams of the City of Peoria Maintenance Improvement District No. 1183 described in Section 2 of this Resolution to be assessed to pay the costs and expenses thereof, under and in accordance with the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended.

SECTION 4. The majority of owners of all of the real property within the proposed district have executed a Petition for formation of a Maintenance Improvement District and the City Council has verified the ownership of the property. Publication and posting of the notice of the passage of the Resolution of Intention will be completed as prescribed by the State Statues.

SECTION 5. Any Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 6. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is declared to exist, and this Resolution will be in full force and effect from and after its passage and approval by the Mayor and Council of the

Resolution No. 2015-99
MID 1183 – Trilogy West Phase 2 – Parcel C43
October 6, 2015
Page 3 of 8 Pages

City of Peoria, Arizona as required by law and is exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 6th day of October, 2015.

CITY OF PEORIA, an Arizona
municipal corporation

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

THAT PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MARICOPA COUNTY ALUMINUM CAP MARKING THE EAST QUARTER CORNER OF SAID SECTION 27, FROM WHICH THE 1/2" REBAR WITH CAP LS#22782 MARKING THE CENTER OF SAID SECTION 27 BEARS NORTH 89°43'03" WEST, A DISTANCE OF 2,634.31 FEET, BEING A POINT ON A 1,145.00 FOOT RADIUS CURVE, WHOSE CENTER BEARS NORTH 00°17'12" EAST;

THENCE WESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°10'29", A DISTANCE OF 183.35 FEET;

THENCE NORTH 80°32'19" WEST, A DISTANCE OF 152.14 FEET TO THE BEGINNING OF A TANGENT CURVE OF 1,255.00 FOOT RADIUS, CONCAVE SOUTHERLY;

THENCE WESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°10'44", A DISTANCE OF 201.05 FEET;

THENCE SOUTH 00°16'57" WEST, A DISTANCE OF 55.00 FEET TO A POINT ON THE EAST WEST MID-SECTION LINE;

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THENCE NORTH 00°16'57" EAST, DEPARTING SAID MID-SECTION LINE, A DISTANCE OF 69.14 FEET;

THENCE NORTH 45°16'57" EAST, A DISTANCE OF 28.28 FEET;

PAGE 1 OF 3

TITLE: TRILOGY WEST C43 - M.I.D.

PREPARING FIRM: COE & VAN LOO CONSULTANTS, INC.

ADDRESS: 4550 NORTH 12TH STREET, PHOENIX, ARIZONA 85014

PHONE: 602-264-6831

FAX: 602-264-0928

THENCE NORTH 00°16'57" EAST, A DISTANCE OF 88.07 FEET TO THE BEGINNING OF A TANGENT CURVE OF 24.50 FOOT RADIUS, CONCAVE SOUTHWESTERLY;

THENCE NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°43'53", A DISTANCE OF 15.28 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE OF 60.50 FOOT RADIUS, CONCAVE EASTERLY;

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THENCE NORTH 71°10'37" EAST, A DISTANCE OF 86.47 FEET;

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THENCE SOUTH 75°50'02" EAST, A DISTANCE OF 59.63 FEET;

THENCE SOUTH 60°44'17" EAST, A DISTANCE OF 41.94 FEET;

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THENCE SOUTH 29°15'43" WEST, A DISTANCE OF 95.00 FEET TO A POINT ON A 221.50 FOOT RADIUS NON-TANGENT CURVE, WHOSE CENTER BEARS SOUTH 29°15'43" WEST;

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CONTAINING 22.234 ACRES, MORE OR LESS.

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EXHIBIT “B”

IS ON FILE IN THE

CITY OF PEORIA
CITY CLERK’S OFFICE
8401 W. MONROE STREET
PEORIA, AZ 85345

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 18C

Date Prepared: September 2, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
THROUGH: Susan J. Daluddung, Deputy City Manager
SUBJECT: Deeds and Easements, Various Locations

Purpose:

This is a request for City Council to adopt a Resolution accepting Deeds and Easements for various Real Property interests acquired by the City. The deeds and easements have been recorded by the Maricopa County Recorder's Office and this process will formally accept them into the system.

Background/Summary:

The City of Peoria periodically acquires a number of property interests including deeds, roadway dedications and various types of easements. All documents are reviewed for accuracy and recorded. A Resolution to accept these documents has been prepared, which lists each document by recording number and provides information related to each so the property interest to be accepted can be identified.

Previous Actions:

This is an ongoing process which occurs when we have acquired a number of real property interests.

Options:

- A: Approve the adoption of the Resolution accepting Deeds and Easements into our system.
- B: Deny adoption of the Resolution that formally accepts the Deeds and Easements into our system, resulting in the City not having an official record of what has been transferred to the City through recordation in the Maricopa County Recorder's office.

Staff's Recommendation:

Staff recommends the adoption of a Resolution accepting Deeds and Easements for various Real Property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office to ensure completeness of the process.

Fiscal Analysis:

There is no fiscal impact to the City.

Narrative:

This Resolution includes Real Property interests acquired since the adoption of the previous acceptance resolution. The acceptance of the Resolution by City Council would bring the deeds and easements into our system and is the final step in the process.

Exhibit(s):

Exhibit 1: Resolution

Contact Name and Number: Gary Lopez, Plans Review Supervisor, Development and Engineering, (623) 773-7236

RESOLUTION NO. 2015-101

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION FORMALLY ACCEPTING DEEDS AND EASEMENTS FOR PROPERTY RIGHTS CONVEYED TO THE CITY OF PEORIA.

WHEREAS, the real estate interests hereinafter referenced have been conveyed to the City of Peoria;

WHEREAS, it is to the advantage of the City of Peoria to accept said real property interests; and

WHEREAS, the City has determined that acquisition of these property interests is in the interest of the public health, safety and welfare.

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. That the following real property interests are hereby accepted by the City of Peoria and referenced by the recording number issued by the Maricopa County Recorder's Office.

Trilogy West Sewer - Dysart Rd. Alignment
The Larry Company, LLC.
EASEMENT FOR PUBLIC SEWER LINE
Maricopa County Recording No. 20150639167
(Project No. R150004/Deed # 15-019)

Dysart Rd. Alignment at Dixileta

Ventana Lakes Sidewalk Dedications
Ventana Lakes Property Owners Assoc.
EASEMENT FOR PUBLIC SIDEWALK
Maricopa County Recording No. 20150662120

North side of Beardsley Rd, 104th
to 106th Avenues

Ventana Lakes Sidewalk Dedications
Ventana Lakes Property Owners Assoc.
EASEMENT FOR PUBLIC SIDEWALK
Maricopa County Recording No. 20150662121

North side of Beardsley Rd, 109th
Ave. to eastern edge of
Lakeside Unit 2 at Ventana Lakes

Ventana Lakes Sidewalk Dedications
Ventana Lakes Property Owners Assoc.
EASEMENT FOR PUBLIC SIDEWALK
Maricopa County Recording No. 20150662122

North side of Beardsley Rd, 109th
to 111th Avenues

79th Ave and Thunderbird Rd
Satinder & Gurminder Purewal
SPECIAL WARRANTY DEED
Maricopa County Recording No. 20150669419
(Project No. EN00116)

SEC 79th Ave. & Thunderbird Rd.

Thunderbird Rd. Widening Rehab – L101 to 95th Ave.
Larry & Jeff Ltd. Partnership
FINAL ORDER OF CONDEMNATION
Maricopa County Recording No. 20150674524
(Project No. EN00011)

North side of Thunderbird Rd.
West of Loop 101

SECTION 2. Public Easement and Land Rights

That the Mayor and Council accept the deeds and public easements transferred to the City of Peoria as described herein.

SECTION 3. Recording Authorized

That the City Clerk shall record the original of this Resolution with the Maricopa County Recorder's Office.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 6th day of October.

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 19C

Date Prepared: September 14, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Andrew Granger, PE, Development and Engineering Department Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: Replat, a portion of Trilogy at Vistancia Parcel C12 – Amended II, Vistancia Boulevard and Claret Cup Road (Project No. R080061C)

Purpose:

This is a request for City Council to approve a Replat of a portion of Trilogy at Vistancia - Parcel C12 – Amended II, located on Trilogy Boulevard and Claret Cup Road, and authorize the Mayor and City Clerk to sign and record the Replat with the Maricopa County Recorder's Office subject to the following stipulation:

In the event that the Replat is not recorded within 60 days of Council approval, the Replat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Replat is to adjust lot lines for 2 lots within an existing residential subdivision, to accommodate a specific housing product. There are no new lots being created with this replat.

Previous Actions:

The preliminary plat was reviewed by the City and completed in January 2007. The original Replat for the subdivision was approved by City and recorded in Dec 2010 and a replat was recorded in September 2012.

Options:

A: The Replat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Replat; although it should be noted that not approving the Replat will prevent the Developer from developing these lots as desired.

B: The other option would be to formally approve the Replat and allow these lots to be developed.

Staff's Recommendation:

Staff recommends the approval and subsequent recordation of the attached Replat.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Replat.

Narrative:

The acceptance of this Replat by City Council will allow the developer to move forward in developing these lots.

Exhibit(s):

Exhibit 1: Replat

Exhibit 2: Vicinity Map

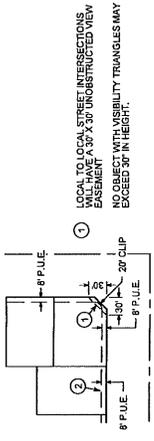
Contact Name and Number:

Jodi Breyfogle, PE: 623-773-7577

REPLAT FOR

LEGEND

- INDICATES FOUND BRASS CAP PER ADJOINING RECORDED SUBDIVISION PER M.A.G. STD. DET. 121, TYPE "B" (UNLESS OTHERWISE NOTED)
- INDICATES CORNER OF THIS SUBDIVISION - TYPE "A" ADDRESS (UNLESS OTHERWISE NOTED)
- INDICATES CORNER OF THIS SUBDIVISION - TYPE "C" ADDRESS (UNLESS OTHERWISE NOTED)
- INDICATES PUBLIC UTILITY EASEMENT (30' X 30')
- INDICATES UNOBTAINED VIEW/EASEMENT
- INDICATES EXISTING P.U.E. PER FINAL PLAT "REPLAT OF A PORTION OF TRILOGY AT VISTANCIA - C12", AS RECORDED IN BOOK OF MAPS 1123, PAGE 28, A.C.R.
- INDICATES CURVE NUMBER
- INDICATES MARICOPA COUNTY RECORDER

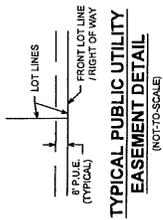


LOCAL TO LOCAL STREET INTERSECTIONS WILL HAVE A 30' X 30' UNOBTAINED VIEW EASEMENT WITH UTILITY TRIANGLES MAY EXCEED 50' IN HEIGHT.

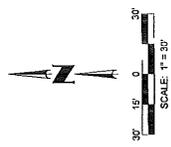
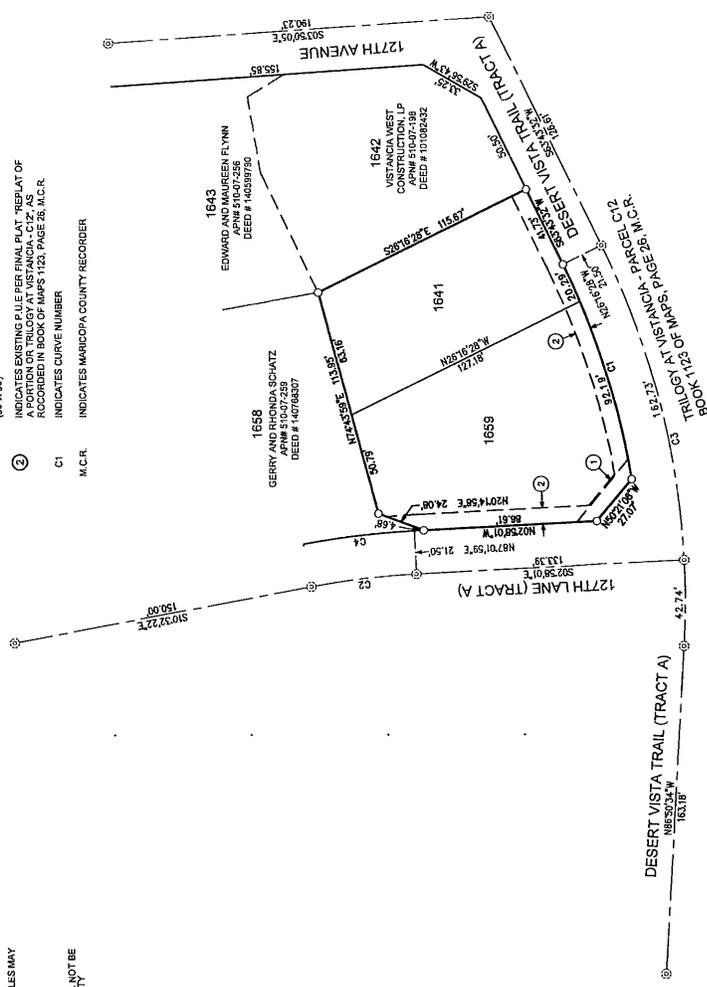
NOTE: CONCRETE MASONRY WALLS SHALL NOT BE CONSTRUCTED IN THE PUBLIC UTILITY EASEMENT

TYPICAL LOT LAYOUT
(NOT TO SCALE)

LOT	AREA (SQUARE FEET)
1641	7,541
1659	10,720
TOTAL	18,261



TYPICAL PUBLIC UTILITY EASEMENT DETAIL
(NOT TO SCALE)

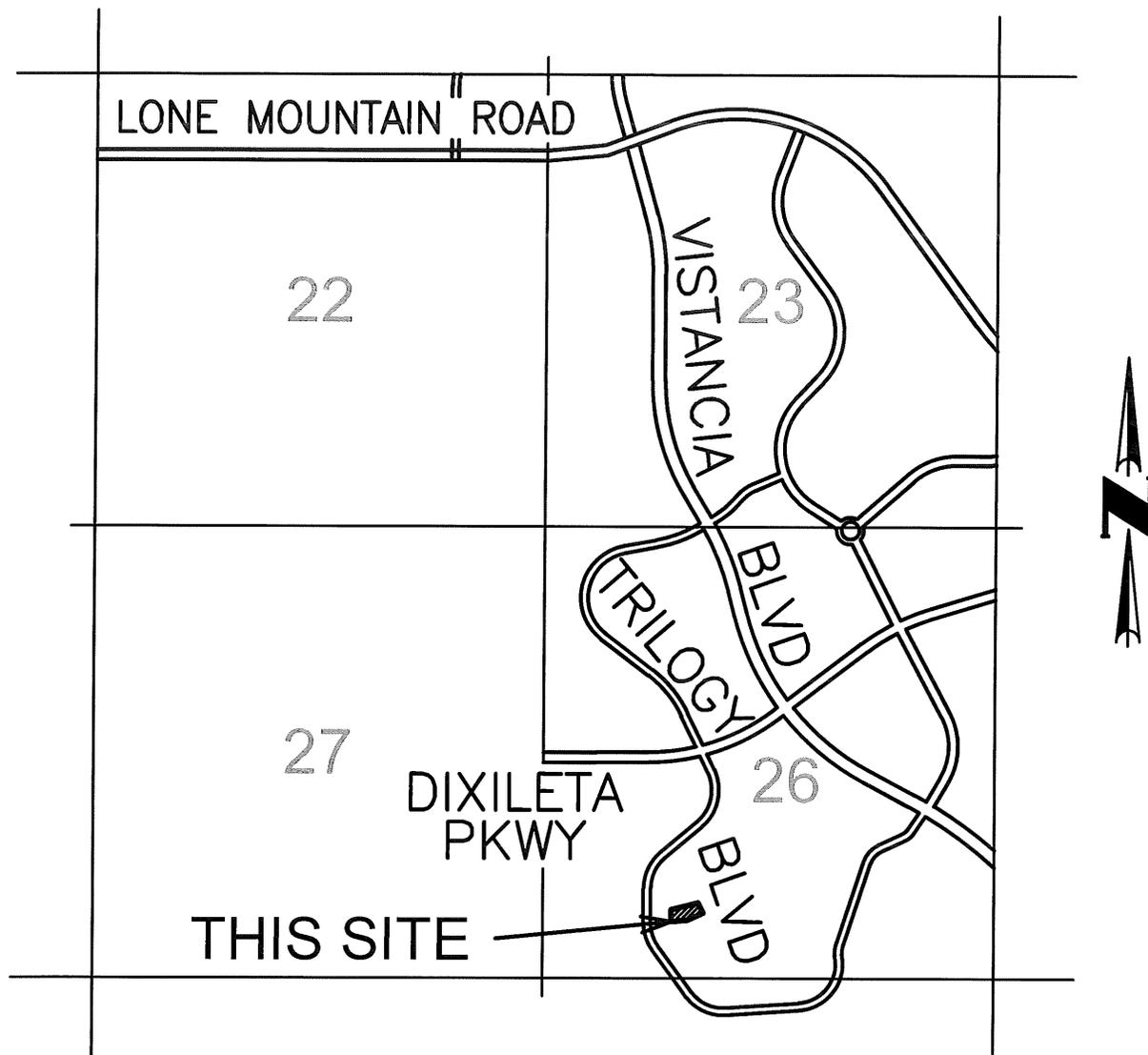


CURVE TABLE

NO.	RADIUS	ARC	DELTA	TANGENT	CHORD	CHORD-BEARING
1	400.00	1.87	0.07	34.21	26.47	S06.45 11.5° E
2	400.00	2.85	0.07	34.21	26.47	S06.45 11.5° E
3	400.00	2.85	0.07	34.21	26.47	S06.45 11.5° W
4	421.50	55.70	0.07	34.21	27.88	N06.45 11.5° W

COUNTY RECORDER

NO.	REVISION	DATE



VICINITY MAP

(NOT-TO-SCALE)

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 20C

Date Prepared: September 22, 2015

Council Meeting Date: October 06, 2015

TO: Carl Swenson, City Manager

FROM: Brent Mattingly, Finance Director

THROUGH: Jeff Tyne, Deputy City Manager

SUBJECT: Public Hearing: Proposed Recommendations by the City to the Arizona State Liquor Board for Various Liquor Licenses.

Purpose:

Pursuant to Arizona Law the City must make a recommendation to the State Liquor Board regarding the approval of applications to sell alcoholic beverages in the City. The Standard for the City's recommendation is whether the best interest of the community will be served by the issuance of these licenses and whether the public convenience is served.

Background/Summary:

Tailgaters Sports Grill & IL Primo Pizza & Wings

Tailgaters Sports Grill & IL Primo Pizza & Wings is a new restaurant located at 10146 W. Lake Pleasant Parkway Suite #1030. The new restaurant is occupying a building that was previously occupied by Panda Buffet. The owners of Tailgaters Sports Grill & IL Primo Pizza & Wings have applied for a new Series 12 Restaurant liquor license. The application agent is Michael J. Stallone.

A Series 12 restaurant license is a non-transferable license that allows for the restaurant to sell and serve all types of spirituous liquor solely for consumption on the premises. A Restaurant license requires that at least forty percent (40%) of its gross revenue come from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Some of the businesses around Tailgaters Sports Grill & IL Primo Pizza & Wings include Wal-Mart Supercenter, Super Star Car Wash, and Dairy Queen. There are no staff concerns with the owner of Tailgaters Sports Grill & IL Primo Pizza & Wings. The public hearing notice was posted for at least 20 days, and no comments were received during the posting period. The license application was reviewed according to State law and all Departments gave approvals.

Gus's New York Pizza Lounge

Gus's New York Pizza Lounge is a new restaurant located at 10738 N. 75th Avenue #B7. The new restaurant is occupying a building that was previously vacant. The owners of Gus's New York Pizza Lounge have applied for a new Series 12 Restaurant liquor license. The application agent is Lauren K. Merret.

A Series 12 restaurant license is a non-transferable license that allows for the restaurant to sell and serve all types of spirituous liquor solely for consumption on the premises. A Restaurant license requires that at least forty percent (40%) of its gross revenue come from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Some of the businesses around Gus's New York Pizza Lounge include Circle K, Herrera's Mexican Food, and Neighbors Bar. There are no staff concerns with the owner of Gus's New York Pizza Lounge. The public hearing notice was posted for at least 20 days, and no comments were received during the posting period. The license application was reviewed according to State law and all Departments gave approvals.

Q Bar and Grill

Q Bar and Grill is an existing business located at 6750 W. Olive Avenue. The owners have applied for a Person Transfer of an existing Series 06 Liquor License into their name. The existing owners have restructured the LLC and are required to reapply for the Series 06 application under the new LLC. The application agent is Charles A. Rohlfing.

Series 06—permits a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

Some of the businesses around Q Bar and Grill include Peoria Pawn, Bruno's Pizza and 7-Eleven. There are no staff concerns with the owner of Q Bar and Grill. The public hearing notice was posted for at least 20 days and no comments were received during the posting period.

Previous Actions:

In October 2012, the Mayor and Council recommended approval to the Arizona State Liquor Board for Panda Buffet for a New (Series 12) Restaurant Liquor License for located at 10146 W. Lake Pleasant Parkway Suite #1030.

There has never been a liquor license at 10738 N. 75th Avenue #B7.

In August 1987, the Mayor and Council recommended approval to the Arizona State Liquor Board for Q Bar and Grill for an On-Sale All Liquor License (Series 06) Liquor License located at 6750 W. Olive Avenue.

Options:

A: Recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Tailgaters Sports Grill & IL Primo Pizza & Wings, located at 10146 W. Lake Pleasant Parkway Suite #1030, Michael J. Stallone., Applicant, LL#20013295.

Recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Gus's New York Pizza Lounge, located at 10738 N. 75th Avenue #B7, Lauren K. Merret, Applicant, LL#20009630.

Recommend approval to the Arizona State Liquor Board for a Person Transfer for an On-Sale All Liquor License (Series 06) for Q Bar and Grill, located at 6750 W. Olive Avenue, Charles A. Rohlfing, Applicant, LL#3700.

B: Recommend denial to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Tailgaters Sports Grill & IL Primo Pizza & Wings, located at 10146 W. Lake Pleasant Parkway Suite #1030, Michael J. Stallone., Applicant, LL#20013295.

Recommend denial to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Gus's New York Pizza Lounge, located at 10738 N. 75th Avenue #B7, Lauren K. Merret, Applicant, LL#20009630.

Recommend denial to the Arizona State Liquor Board for a Person Transfer for an On-Sale All Liquor License (Series 06) for Q Bar and Grill, located at 6750 W. Olive Avenue, Charles A. Rohlfing, Applicant, LL#3700.

Staff's Recommendation:

That the Mayor and Council recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Tailgaters Sports Grill & IL Primo Pizza & Wings, located at 10146 W. Lake Pleasant Parkway Suite #1030, Michael J. Stallone., Applicant, LL#20013295.

That the Mayor and Council recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Gus's New York Pizza Lounge, located at 10738 N. 75th Avenue #B7, Lauren K. Merret, Applicant, LL#20009630.

That the Mayor and Council recommend approval to the Arizona State Liquor Board for a Person Transfer for an On-Sale All Liquor License (Series 06) for Q Bar and Grill, located at 6750 W. Olive Avenue, Charles A. Rohlfing, Applicant, LL#3700.

Fiscal Analysis:

The item has no financial implications.

Narrative:

The appropriate fees have been paid and the applicants have been advised that a representative needs to be present at the meeting to answer any questions that the Council or public may have.

Exhibit 1: New Liquor License Applications



Arizona Department of Liquor Licenses and Control
 800 W Washington 5th Floor
 Phoenix, AZ 85007
 www.azliquor.gov
 (602) 542-5141

15 AUG 4 11:41 AM '15

Application for Liquor License
 Type or Print with Black Ink

- SECTION 1** This application is for a:
- Interim Permit (Complete Section 5)
 - New License (Complete Sections 2, 3, 4, 13, 14, 15, 16)
 - Person Transfer (Complete Section 2, 3, 4, 12, 13, 14, 16)
 - Location Transfer (Bars and Liquor Stores Only)
 (Complete Section 2, 3, 4, 11, 13, 14, 16)
 - Probate/ Will Assignment/ Divorce Decree
 (Complete Sections 2, 3, 4, 9, 13, 14, 16)
 (Fee not required)
 - Government (Complete Sections 2, 3, 4, 10, 13, 16)
 - Seasonal

- SECTION 2** Type of Ownership:
- J.T.W.R.O.S. (Complete Section 6)
 - Individual (Complete Section 6)
 - Partnership (Complete Section 6)
 - Corporation (Complete Section 7)
 - Limited Liability Co (Complete Section 7)
 - Club (Complete Section 8)
 - Government (Complete Section 10)
 - Trust (Complete Section 6)
 - Tribe (Complete Section 6)
 - Other (Explain) _____

SECTION 3 Type of License: #12 - Restaurant LICENSE # 1207A345

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE
 A service fee of \$25 will be charged for all dishonored checks (A.R.S. § 44-6852)

SECTION 4 Applicants

1. Individual Owner/Agent's Name: Stallone Michael John
Last First Middle

2. Owner Name: MJS & LEE Enterprises LLC
(Ownership name for type of ownership checked on section 2)

3. Business Name: Tailgators Sports Grill & AL Primo Pizza & Wings B1042764
(Exactly as it appears on the exterior of premises)

4. Business Location Address: 10146 W Lake Pleasant Pkwy #1030 Peoria, AZ 85382 Maricopa
(Do not use PO Box) Street City State Zip Code County

5. Mailing Address: 10146 W Lake Pleasant Pkwy #1030 Peoria, AZ 85382
(All correspondence will be mailed to this address) Street City State Zip Code

6. Business Phone: Pending Daytime Contact Phone: [REDACTED]

7. Email Address: [REDACTED]

8. Is the Business located within the incorporated limits of the above city or town? Yes No
9. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? Yes No
 If Yes, what City, Town or Tribal Reservation is this Business located in: _____

10. Total Price paid for Series 6 Bar, Series 7 Beer & Wine Bar or Series 9 Liquor Store (license only) \$ _____

Fees: <u>100</u>	Department Use Only		
Application	<u>50</u>	<u>44</u>	\$ <u>194</u>
Interim Permit	Site Inspection	Finger Prints	Total of All Fees
Is Arizona Statement of Citizenship & Alien Status for State Benefits complete? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Accepted by: <u>[REDACTED]</u>	Date: <u>08/04/2015</u>	License # <u>1207A345</u>	

SECTION 5 Interim Permit

- If you intend to operate business when your application is pending you will need an interim permit pursuant to ARS § 4-203.01
- There **MUST** be a valid license of the same type you are applying for currently issued to the location or for the replacement of a Hotel/Motel license with a Restaurant license pursuant to A.R.S. § 4-203.01.

1. Enter license number currently at the location: _____
2. Is the license currently in use? Yes No If no, how long has it been out of use? _____

Attach a copy of the license currently issued at this location to this application.

I, _____ declare that I am the CURRENT OWNER, AGENT, OR CONTROLLING
 (Print Full Name) PERSON on the stated license and location.

X _____
 (Signature)

State _____ County of _____
 The foregoing instrument was acknowledged before me this

_____ day of _____
 Day Month Year

My Commission Expires on: _____
 Date

 (Signature of Notary Public)

SECTION 6 Individual, Partnership, J.T.W.R.O.S, Trust, Tribe Ownerships

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

Individual

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code

Is any person other than above, going to share in profit/losses of the business? Yes No

If Yes, give name, current address, and telephone number of person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City	State	Zip Code	Phone #

Partnership

Name of Partnership: _____

General	Limited	Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
<input type="checkbox"/>	<input type="checkbox"/>								
<input type="checkbox"/>	<input type="checkbox"/>								
<input type="checkbox"/>	<input type="checkbox"/>								
<input type="checkbox"/>	<input type="checkbox"/>								

J.T.W.R.O.S (Joint Tenant with Rights of Survivorship)

Name of J.T.W.R.O.S: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 6 - continued

TRUST

Name of Trust: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

TRIBE

Name of Tribal Ownership: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 7 Corporations/ Limited Liability Co

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

Corporation Complete Questions 1, 2, 3, 4, 5, 6, and 7

L.L.C. Complete Questions 1, 2, 3, 4, 5, 6, and 7

- Name of Corporation/ L.L.C.: MTS & LEE ENTERPRISES LLC
- Date Incorporated/Organized: 6/25/2015 State where incorporated/Organized: AZ
- AZ Corporation or AZ L.L.C File No: L2015393 Date authorized to do Business in AZ: 7/23/15
- Is Corp/L.L.C. Non Profit? Yes No
- List Directors, Officers, Members in Corporation/L.L.C:

Last	First	Middle	Title	Mailing Address	City	State	Zip Code
Stallone	Michael	John	Member	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Fussy	Larry	Frank	Member				

(Attach additional sheet if necessary)

6. List all Stockholders / percentage owners who own 10% or more:

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
Stallone	Michael	John	50	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Fussy	Larry	Frank	50				

(Attach additional sheet if necessary)

7. If the corporation/ L.L.C are owned by another entity, attach an Organizational FLOWCHART showing the structure of the ownership. Attach additional sheets as needed in order to disclose the Officers, Directors, Members, Managers, Partners, Stockholders and percentage owners of those entities.

SECTION 12 Person to Person Transfer

Questions to be completed by Current Licensee (Bar and Liquor Stores Only- Series, 06, 07, and 09)

1. Individual Owner / Agent Name: _____ Entity: _____
Last First Middle (Individual, Agent, Etc)

2. Ownership Name: _____
(Exactly as it appears on license)

3. Business Name: _____
(Exactly as it appears on license)

4. Business Location Address: _____
Street City State Zip

5. License Type: _____ License Number: _____

6. Current Mailing Address: _____
Street City State Zip

7. Have all creditors, lien holders, interest holder, etc. been notified? Yes No

8. Does the applicant intend to operate the business while this application is pending? Yes No

If yes, complete Section 5 (Interim Permit) of this application; attach fee, and current license to this application.

9. I, (print full name) _____ hereby authorize the department to process this Application to transfer the privilege of the license to the applicant provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, (print full name) _____, declare that I am the CURRENT OWNER, MEMBER, PARTNER STOCKHOLDER or LICENSEE of the stated license. I have read the above Section 11 and confirm that all statements are true, correct, and complete.

X _____
(Signature of CURRENT Individual Owner/Agent)

NOTARY

State of _____ County of _____
State County

The foregoing instrument was acknowledged before me this _____ day of _____, _____
Day Month Year

My commission expires on _____
Day/ Month/Year Signature of NOTARY PUBLIC

SECTION 13 Proximity to Church or School

Questions to be completed by all in-state applicants EXCLUDING those applying for a Series 5 Government, Series 11 Hotel/Motel, and Series 12 Restaurant licenses.

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

*Patricia
AZ
8530*

1. Distance to nearest School: 7910
(# less than one (1) mile note footage)

Address: 9611 W. Speckled Gecko Dr,

Name of School: Liberty High School

2. Distance to nearest Church: 4914
(# less than one (1) mile note footage)

Address: 8902 W. Deer Valley Rd. Patton, AZ 8530

Name of Church: Mt. Zion Lutheran Church

SECTION 14 Business Financials

1. I am the: Lessee Sub-lessee Owner Purchaser Management Company

2. If the premise is leased give lessors:

Name: Camping A Lago Marketplace, LLC

Address: 7575 N 16th St, Phoenix, AZ 85020
Street City State Zip

3. Monthly Rent/ Lease Rate: \$ 14,172.81

4. What is the remaining length of the lease? 10 yrs 0 months

5. What is the penalty if the lease is not fulfilled? \$ 1,700,737.28 or other: _____
(Give details-attach additional sheet if necessary)

6. Total money borrowed for the Business not including lease? \$ 0
Please List Lenders/People you owe money to for business.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip

(Attach additional sheet if necessary)

7. What type of business will this license be used for (be specific)?
Restaurant, Sports Grill & Pizzeria

8. Has a license or a transfer license for the premises on this application been denied by the state with in the past (1) year? Yes No If yes, attach explanation.

9. Does any spirituous liquor manufacture, wholesaler, or employee have an interest in your business? Yes No

10. Is the premises currently license with a liquor license? Yes No

If yes, give license number and licensee's name:

License #: _____ Individuol Owner /Agent Name: _____
(Exactly as it appears on license)

SECTION 15 Restaurant or hotel/motel license applicants

1. Is there an existing Restaurant or Hotel/Motel Liquor License at the proposed location? Yes No

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All Restaurant and Hotel/Motel applicants must complete a Restaurant Operation Plan form provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02. (H) (2), a Restaurant is an establishment which derives at least forty (40) percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from sales of food and spirituous liquor on the licensed premises. By applying for this Restaurant Hotel/Motel, I certify that I understand that I must maintain a minimum of forty (40) percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit form with this application.

[Redacted Signature]

(Applicant's Signature)

5. I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing; specify why the extension is necessary; and the new inspection date you are requesting.

[Redacted Initials]

(Applicant's Initials)

SECTION 16 Diagram of Premises

Check ALL boxes that apply to your business:

- Entrances/Exits
- Liquor storage areas
- Patio: Contiguous
- Walk-up windows
- Drive-through windows
- Non Contiguous

1. Is your licensed premises currently closed due to construction, renovation or redesign? Yes No
If yes, what is your estimated completion date? 9/27/15

Month/Day/Year

- 2. **Restaurants and Hotel/Motel** applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Place for diagram is on section 16 number 6.
- 3. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored on the premises unless it is a restaurant (see # 3 above).
- 4. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01 (B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to the boundaries, entrances, exits, added or deleted doors, windows, service windows or increase or decrease to the square footage after submitting this license application.

[Redacted Initials]

(Applicant's Initials)

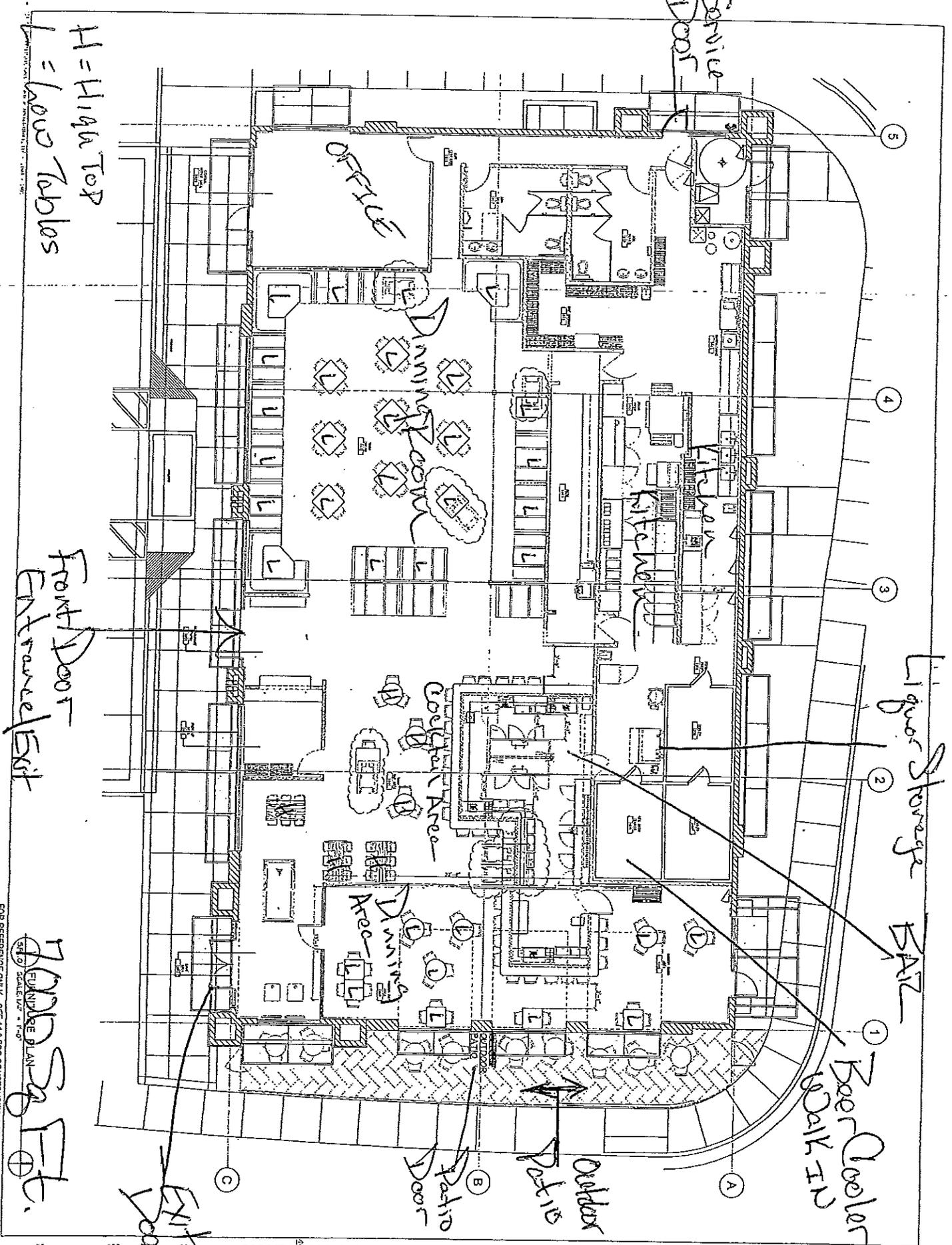
SECTION 16 Diagram of Premises – continued

6. On the diagram please show only the areas where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, hi-top tables, dining tables, dining chairs, dance floor, stage, game room, and the kitchen. DO NOT include parking lots, living quarters, etc. When completing diagram, North is up ↑.

If a legible copy of a rendering or drawing of your diagram of the premises is attached to this application, please write the words "DIAGRAM ATTACHED" in the box provided for the diagram on the application.

DIAGRAM OF PREMISES

Diagram Attached



H = High Top
L = Low Tables

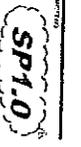
Front Door
Entrance/Exit

7000 Sq Ft.
FURNITURE PLAN
SCALE 1/8" = 1'-0"

EXIT
Door
Primo's
Tailgaters
1914 West Park Row
Phoenix, AZ

NO.	DESCRIPTION	QTY	UNIT
1	STAINLESS STEEL BAR	1	LINEAR FOOT
2	STAINLESS STEEL BAR	1	LINEAR FOOT
3	STAINLESS STEEL BAR	1	LINEAR FOOT
4	STAINLESS STEEL BAR	1	LINEAR FOOT
5	STAINLESS STEEL BAR	1	LINEAR FOOT
6	STAINLESS STEEL BAR	1	LINEAR FOOT
7	STAINLESS STEEL BAR	1	LINEAR FOOT
8	STAINLESS STEEL BAR	1	LINEAR FOOT
9	STAINLESS STEEL BAR	1	LINEAR FOOT
10	STAINLESS STEEL BAR	1	LINEAR FOOT
11	STAINLESS STEEL BAR	1	LINEAR FOOT
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13	STAINLESS STEEL BAR	1	LINEAR FOOT
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45	STAINLESS STEEL BAR	1	LINEAR FOOT
46	STAINLESS STEEL BAR	1	LINEAR FOOT
47	STAINLESS STEEL BAR	1	LINEAR FOOT
48	STAINLESS STEEL BAR	1	LINEAR FOOT
49	STAINLESS STEEL BAR	1	LINEAR FOOT
50	STAINLESS STEEL BAR	1	LINEAR FOOT

FOR REFERENCE ONLY - SEE A1.0 FOR CONSTRUCTION ITEMS



WALTERS & PRIMO
 ARCHITECTS & INTERIORS
 1000 N. CENTRAL AVENUE, SUITE 100
 PHOENIX, AZ 85004
 PHONE: 602.441.1111
 FAX: 602.441.1112
 WWW.WALTERS-PRIMO.COM

CAFE DESIGN & ARCHITECTURE
 8 ARCHITECTS
 1000 N. CENTRAL AVENUE, SUITE 100
 PHOENIX, AZ 85004
 PHONE: 602.441.1111
 FAX: 602.441.1112
 WWW.WALTERS-PRIMO.COM

SECTION 17 SIGNATURE BLOCK

I, (Print Full Name) MICHAEL JOHN STALLONE, hereby declare that I am the Owner/Agent filing this application as stated in Section 4 # 1. I have read this application and verify all statements to be true, correct and complete.

X (Signature) 

State of ARIZONA County of MARICOPA

 **DONNA STANLEY**
NOTARY PUBLIC, ARIZONA
MARICOPA COUNTY
My Commission Expires
May 9, 2018

The foregoing instrument was acknowledged before me this

3rd of August, 2015

Year



My commission expires on: May 9, 2018

A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.



Arizona Department of Liquor Licenses and Control
 800 W Washington 5th Floor
 Phoenix, AZ 85007
 www.azliquor.gov
 (602) 542-5141

15 JUL 24 11:39 AM

Application for Liquor License
 Type or Print with Black Ink

SECTION 1 This application is for a:

- Interim Permit (Complete Section 5)
- New License (Complete Sections 2, 3, 4, 13, 14, 15, 16)
- Person Transfer (Complete Section 2, 3, 4, 12, 13, 14, 16)
- Location Transfer (Bars and Liquor Stores Only)
 (Complete Section 2, 3, 4, 11, 13, 14, 16)
- Probate/ Will Assignment/ Divorce Decree
 (Complete Sections 2, 3, 4, 9, 13, 14, 16)
 (Fee not required)
- Government (Complete Sections 2, 3, 4, 10, 13, 16)
- Seasonal

SECTION 2 Type of Ownership:

- J.T.W.R.O.S. (Complete Section 6)
- Individual (Complete Section 6)
- Partnership (Complete Section 6)
- Corporation (Complete Section 7)
- Limited Liability Co (Complete Section 7)
- Club (Complete Section 8)
- Government (Complete Section 10)
- Trust (Complete Section 6)
- Tribe (Complete Section 6)
- Other (Explain) _____

SECTION 3 Type of license

1. Type of License: Series 12

LICENSE # 1207A332

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE

A service fee of \$25 will be charged for all dishonored checks (A.R.S. § 44-6852)

SECTION 4 Applicants

1. Individual Owner/Agent's Name: Merrett Lauren Kay
Last First Middle

2. Owner Name: Guru Nanak LLC
(Ownership name for type of ownership checked on section 2)

3. Business Name: Gus's New York Pizza Lounge
(Exactly as it appears on the exterior of premises)

4. Business Location Address: 10738 N 75th Ave #B7 Peoria AZ 85345
(Do not use PO Box) Street City State Zip Code County

5. Mailing Address: [Redacted] Chandler AZ 85224
(All correspondence will be mailed to this address) Street City State Zip Code

6. Business Phone: Pending Daytime Contact Phone: [Redacted]

7. Email Address: N/A

8. Is the Business located within the incorporated limits of the above city or town? Yes No

9. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? Yes No

If Yes, what City, Town or Tribal Reservation is this Business located in: _____

10. Total Price paid for Series 6 Bar, Series 7 Beer & Wine Bar or Series 9 Liquor Store (license only) \$ _____

Fees: <u>1000</u>	Department Use Only		
Application	Interim Permit	<u>500</u>	<u>220</u>
		Site Inspection	Finger Prints
		<u>1700</u>	
Total of All Fees			
Is Arizona Statement of Citizenship and Status for State Benefits complete? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Accepted by: <u>[Redacted]</u>		Date: <u>7/24/15</u> License # <u>1207A332</u>	

SECTION 5 Interim Permit

- If you intend to operate business when your application is pending you will need an interim permit pursuant to ARS § 4-203.01
- There **MUST** be a valid license of the same type you are applying for currently issued to the location or for the replacement of a Hotel/Motel license with a Restaurant license pursuant to A.R.S. § 4-203.01.

1. Enter license number currently at the location: _____
 2. Is the license currently in use? Yes No If no, how long has it been out of use? _____

Attach a copy of the license currently issued at this location to this application.

I, _____ declare that I am the CURRENT OWNER, AGENT, OR CONTROLLING
 (Print Full Name) PERSON on the stated license and location.

X _____
 (Signature)

State _____ County of _____
 The foregoing instrument was acknowledged before me this

_____ day of _____
 Day Month Year

My Commission Expires on: _____
 Date (Signature of Notary Public)

SECTION 6 Individual, Partnership, J.T.W.R.O.S, Trust, Tribe Ownerships

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

Individual

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code

Is any person other than above, going to share in profit/losses of the business? Yes No
 If Yes, give name, current address, and telephone number of person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City	State	Zip Code	Phone #

Partnership

Name of Partnership: _____

General-Limited	Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
<input type="checkbox"/> <input type="checkbox"/>								
<input type="checkbox"/> <input type="checkbox"/>								
<input type="checkbox"/> <input type="checkbox"/>								
<input type="checkbox"/> <input type="checkbox"/>								

J.T.W.R.O.S (Joint Tenant with Rights of Survivorship)

Name of J.T.W.R.O.S: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 6 - continued

TRUST

Name of Trust: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

TRIBE

Name of Tribal Ownership: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 7 Corporations/ Limited Liability Co

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

Corporation Complete Questions 1, 2, 3, 4, 5, 6, and 7

L.L.C. Complete Questions 1, 2, 3, 4, 5, 6, and 7

1. Name of Corporation/ L.L.C: Guru Nanak LLC

2. Date Incorporated/Organized: 5/21/13 State where Incorporated/Organized: AZ

3. AZ Corporation or AZ L.L.C File No: L-18481500 Date authorized to do Business in AZ: 6/13/13

4. Is Corp/L.L.C. Non Profit? Yes No

5. List Directors, Officers, Members In Corporation/L.L.C:

Last	First	Middle	Title	Mailing Address	City	State	Zip Code
Sodhi	Sarbjit	Singh	Mgr/Mbr				

(Attach additional sheet if necessary)

6. List all Stockholders / percentage owners who own 10% or more:

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
Sodhi	Sarbjit	Singh	100%				

(Attach additional sheet if necessary)

7. If the corporation/ L.L.C are owned by another entity, attach an Organizational FLOWCHART showing the structure of the ownership. Attach additional sheets as needed in order to disclose the Officers, Directors, Members, Managers, Partners, Stockholders and percentage owners of those entities.

SECTION 8 Club Applicants

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

1. Name of Club: _____

2. Is Club non-profit? Yes No

3. List all controlling members (minimum of four (4) requested)

Last	First	Middle	Mailing Address	City	State	Zip Code

(Attach additional sheet if necessary)

SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Liquor License

1. Current Licensee's Name: _____
(Exactly as it appear on the license) Last First Middle

2. Assignee's Name: _____
Last First Middle

3. License Type: _____ License Number: _____

ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE.

SECTION 10 Government (for cities, towns, or counties only)

1. Government Entity: _____

2. Person/Designee: _____
First Last Middle Day time Contact Phone #

A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISE FROM WHICH SPIRITUOUS LIQUOR IS SERVED.

SECTION 11 Location to Location Transfer: Series 6 Bar, Series 7 Beer & Wine Series 9 Liquor Stores only

1. Current Business: Name: _____

Address: _____
(Exactly as it appears on license)

2. New Business: Name: _____

Address: _____

3. License Type: _____ License Number: _____

SECTION 12 Person to Person Transfer

Questions to be completed by Current Licensee (Bar and Liquor Stores Only- Series, 06, 07, and 09)

1. Individual Owner / Agent Name: _____ Entity: _____
Last First Middle (Individual, Agent, Etc)

2. Ownership Name: _____
(Exactly as it appears on license)

3. Business Name: _____
(Exactly as it appears on license)

4. Business Location Address: _____
Street City State Zip

5. License Type: _____ License Number: _____

6. Current Mailing Address: _____
Street City State Zip

7. Have all creditors, lien holders, interest holders, etc. been notified? Yes No

8. Does the applicant intend to operate the business while this application is pending? Yes No

If yes, complete Section 5 (Interim Permit) of this application; attach fee, and current license to this application.

9. I, (Print Full Name) _____ hereby authorize the department to process this Application to transfer the privilege of the license to the applicant provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, (Print Full Name) _____, declare that I am the **CURRENT OWNER, MEMBER, PARTNER STOCKHOLDER or LICENSEE** of the stated license. I have read the above Section 12 and confirm that all statements are true, correct, and complete.

X _____
(Signature of CURRENT Individual Owner/Agent)

NOTARY

State of _____ County of _____
State County

The foregoing instrument was acknowledged before me this _____ day of _____, _____
Day Month Year

My commission expires on _____
Day/ Month/Year Signature of NOTARY PUBLIC

SECTION 13 Proximity to Church or School

Questions to be completed by all in-state applicants EXCLUDING those applying for a Series 5 Government, Series 11 Hotel/Motel, and Series 12 Restaurant licenses.

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

1. Distance to nearest School: _____ Name of School: _____
(if less than one (1) mile note footage) Address: _____

2. Distance to nearest Church: _____ Name of Church: _____
(if less than one (1) mile note footage) Address: _____

SECTION 14 Business Financials

1. I am the: Lessee Sub-lessee Owner Purchaser Management Company

2. If the premise is leased give lessors: Name: Avenue Shoppes LLC
 Address: 1450 E Indian School Rd #104 Phoenix AZ 85014
Street City State Zip

3. Monthly Rent/ Lease Rate: \$ 5500.00

4. What is the remaining length of the lease? 5 yrs _____ months

5. What is the penalty if the lease is not fulfilled? \$ _____ or other: Balance
(Give details-attach additional sheet if necessary)

6. Total money borrowed for the Business not including lease? \$ \$15000.00

Please list Lenders/People you owe money to for business. Also invested funds from the sale of another business.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip
Kaur	Manpreet		\$15000.00	[REDACTED]			

(Attach additional sheet if necessary)

7. What type of business will this license be used for (be specific)?
Restaurant

8. Has a license or a transfer license for the premises on this application been denied by the state within the past (1) year? Yes No If yes, attach explanation.

9. Does any spirituous liquor manufacture, wholesaler, or employee have an interest in your business? Yes No

10. Is the premises currently license with a liquor license? Yes No

If yes, give license number and licensee's name:

License #: _____ Individual Owner / Agent Name: _____
(Exactly as it appears on license)

SECTION 15 Restaurant or hotel/motel license applicants

1. Is there an existing Restaurant or Hotel/Motel Liquor License at the proposed location? Yes No

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All Restaurant and Hotel/Motel applicants must complete a Restaurant Operation Plan form provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02. (H)(2), a Restaurant is an establishment which derives at least forty (40) percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from sales of food and spirituous liquor on the licensed premises. By applying for this Restaurant Hotel/Motel, I certify that I understand that I must maintain a minimum of forty (40) percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit form with this application.

[Redacted Signature]

5. I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing; specify why the extension is necessary; and the new inspection date you are requesting.

[Redacted Signature]
(Applicant's Initials)

SECTION 16 Diagram of Premises

Check ALL boxes that apply to your business:

- Entrances/Exits Liquor storage areas **Patio:** Contiguous
- Walk-up windows Drive-through windows Non Contiguous

1. Is your licensed premises currently closed due to construction, renovation or redesign? Yes No
If yes, what is your estimated completion date? 9/1/15

Month/Day/Year

2. Restaurants and Hotel/Motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Place for diagram is on section 16 number 6.

3. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored on the premises unless it is a restaurant (see # 3 above).

4. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01 (B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to the boundaries, entrances, exits, added or deleted doors, windows, service windows or increase or decrease to the square footage after submitting this initial diagram.

[Redacted Signature]
(Applicant's Initials)

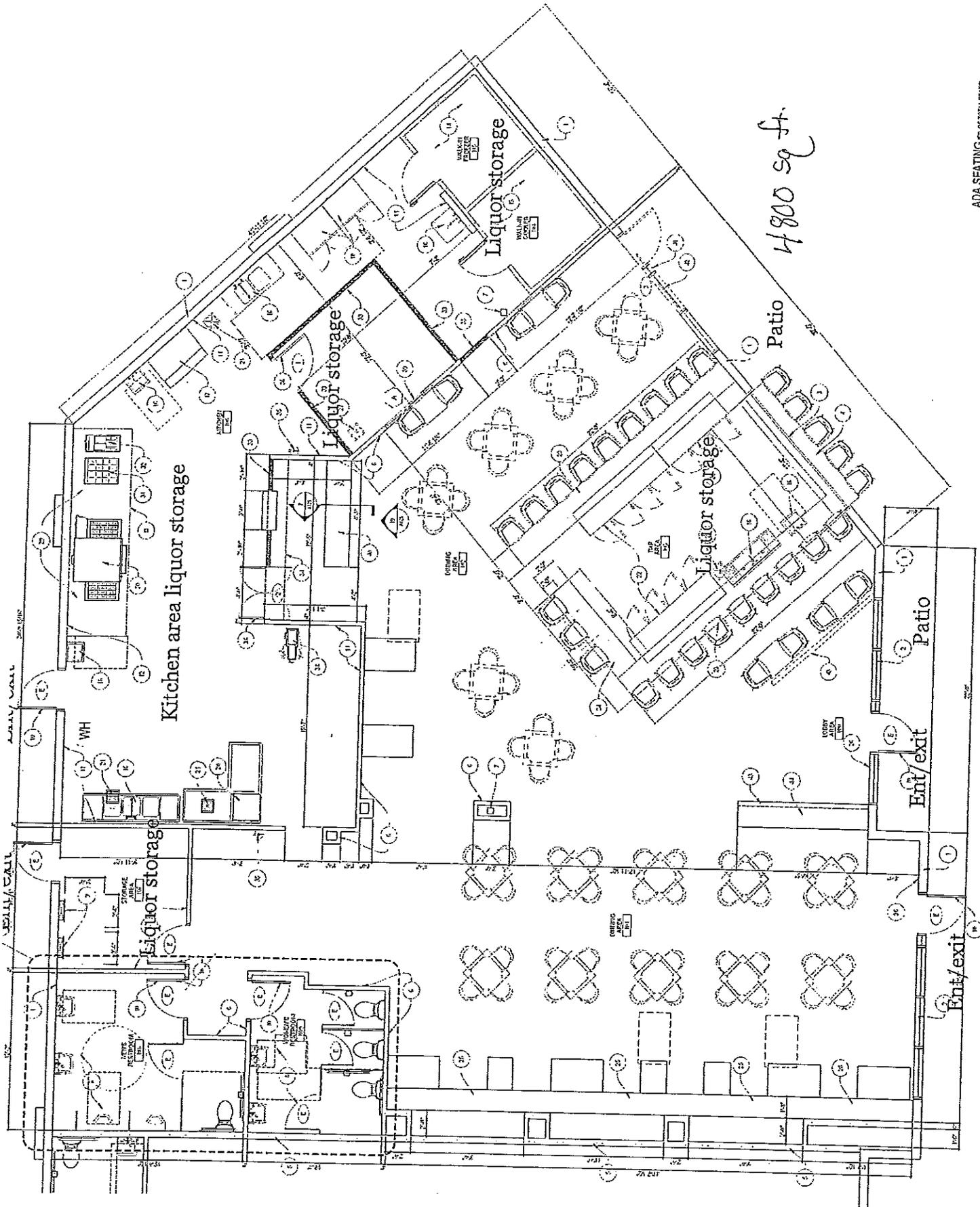
SECTION 16 Diagram of Premises – continued

6. On the diagram please show only the areas where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, hi-top tables, dining tables, dining chairs, dance floor, stage, game room, and the kitchen. DO NOT include parking lots, living quarters, etc. When completing diagram, North is up ↑.

If a legible copy of a rendering or drawing of your diagram of the premises is attached to this application, please write the words "DIAGRAM ATTACHED" in the box provided for the diagram on the application.

DIAGRAM OF PREMISES

Please see attached



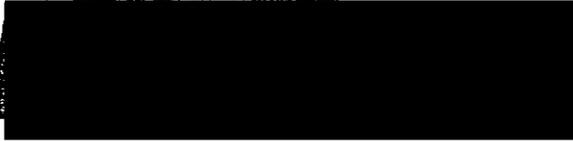
4800 sq ft

ADA SEATING: 6% OF TOTAL SEATING
 41 SEATING TABLES - 116 TABLES @ 4 SEATING
 4 SEATING BENCHES - 11 TABLES @ 2 SEATING
 22 SEATING COUNTERS
 TOTAL SEATING CAPACITY: 600 SEATING
 SEATING PROVIDED: 600 OF 600
 3 PATIO SEATING

SECTION 17 SIGNATURE BLOCK

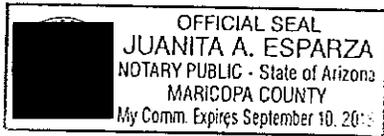
I, (Print Full Name) Lauren Kay Merrett, hereby declare that I am the Owner/Agent filling this application as stated in Section 4 # 1. I have read this application and verify all statements to be true, correct and complete. To the best of my knowledge.

X (Signature)



State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this



24 of JULY 2015

My commission expires on: _____



A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.



Arizona Department of Liquor Licenses and Control
 800 W Washington 5th Floor
 Phoenix AZ, 85007-2934
 www.azliquor.gov
 (602) 542-5141

Application for Liquor License
 Type or Print with Black Ink

15 JUN 18 14:47 PM 1:05

- SECTION 1** This application is for a:
- Interim Permit (Complete Section 5)
 - New License (Complete Sections 2, 3, 4, 13, 14, 15, 16)
 - Person Transfer (Complete Section 2, 3, 4, 12, 13, 14, 16)
 - Location Transfer (Bors and Liquor Store Only) (Complete Section 2, 3, 4, 11, 13, 14, 16)
 - Probate/ Will Assignment/ Divorce Decree (Complete Sections 2, 3, 4, 9, 13, 14, 16) (Fee not required)
 - Government (Complete Sections 2, 3, 4, 10, 13, 16)
 - Seasonal

- SECTION 2** Type of Ownership:
- J.T.W.R.O.S. (Complete Section 6)
 - Individual (Complete Section 6)
 - Partnership (Complete Section 6)
 - Corporation (Complete Section 7)
 - Limited Liability Co (Complete Section 7)
 - Club (Complete Section 8)
 - Government (Complete Section 10)
 - Trust (Complete Section 6)
 - Tribe (Complete Section 6)
 - Other (Explain) _____

SECTION 3 Type of license

LICENSE # 06070095

1. Type of License: 6

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE
 A service fee of \$25 will be charged for all dishonored checks (A.R.S. § 44-6852)

SECTION 4 Applicants

1. Individual Owner/Agent's Name: Ronlfing Charles Allen
Last First Middle
2. Owner Name: Q Bar and Grill LLC
(Ownership name for type of ownership check on section 2)
3. Business Name: Q-Bar = Grill
(Exactly as it appears on the exterior of premises)
4. Business Location Address: 6750 W. Olive Ave Peoria AZ 85345
(Do not use PO Box) Street City State Zip Code County Maricopa
5. Mailing Address: [Redacted] mx AZ 85019
(All correspondence will be mailed to this address) Street City State Zip Code
6. Business Phone: 623 979-9333 Daytime Contact Phone: [Redacted]
7. Email Address: [Redacted]
8. Is the Business located within the incorporated limits of the above city or town? Yes No
9. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? Yes No
 If Yes, what City, Town or Tribal Reservation is this Business located in: _____
10. Total Price paid for Series 6 Bar, Series 7 Beer & Wine Bar or Series 9 Liquor Store (license only) \$ _____

Fees:	<u>100.00</u>	<u>100.00</u>	Department Use Only	<u>44.00</u>	
	Application	Interim Permit	Site Inspection	Finger Prints	Total of All Fees
Is Arizona Statement of Ownership Status for State Benefits complete? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Accepted by: <u>[Redacted]</u>		Date: <u>6/18/15</u>		License # <u>06070095</u>	

SECTION 5 Interim Permit

- If you intend to operate business when your application is pending you will need an interim permit pursuant to ARS § 4-203.01
- There **MUST** be a valid license of the same type you are applying for currently issued to the location or for the replacement of a Hotel/Motel license with a Restaurant license pursuant to A.R.S. § 4-203.01.

1. Enter license number currently at the location: 06076095

2. Is the license currently in use? Yes No If no, how long had it been out of use? _____

(If over six (6) months, attach a letter requesting Interim Permit)

Attach a copy of the license currently issued at this location to this application.

I, Charles Allen Rohlfing declare that I am the CURRENT OWNER, AGENT, OR CONTROLLING PERSON on the stated license and location.

(print name) [Redacted]
 X [Redacted]



State ARIZONA County of MARICOPA
 The foregoing instrument was acknowledged before me this 18 day of JUNE 2015
 Day [Redacted]

My Commission Expires on: _____ Date

SECTION 6 Individual, Partnership, J.T.W.R.O.S, Trust, Tribe Ownerships

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

Individual

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code

Is any person other than above, going to share in profit/losses of the business? Yes No
 If Yes, give name, current address, and telephone number of person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City	State	Zip Code	Phone #

Partnership

Name of Partnership: _____

General-Limited	Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
<input type="checkbox"/> <input type="checkbox"/>								
<input type="checkbox"/> <input type="checkbox"/>								
<input type="checkbox"/> <input type="checkbox"/>								
<input type="checkbox"/> <input type="checkbox"/>								

J.T.W.R.O.S (Joint Tenant with Rights of Survivorship)

Name of J.T.W.R.O.S: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 6 - continued

TRUST

Name of Trust: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

TRIBE

Name of Tribal Ownership: _____

Last	First	Middle	% Owned	Mailing Address	City	State	Zip Code

SECTION 7 Corporations/ Limited Liability Co

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

Corporation Complete Questions 1, 2, 3, 4, 5, 6, and 7

L.L.C. Complete Questions 1, 2, 3, 4, 5, 6, and 7

1. Name of Corporation/ L.L.C.: Q Bar and Grill LLC

2. Date Incorporated/Organized: 3-2008 State where Incorporated/Organized: Arizona

3. AZ Corporation or AZ L.L.C File No: L14379181 Date authorized to do Business in AZ: 3-2008

4. Is Corp/L.L.C. Non Profit? Yes No

5. List Directors, Officers, Members in Corporation/L.L.C:

Last	First	Middle	Title	Mailing Address	City	State	Zip Code
Rohlfing	Charles	Allen	Member	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Rohlfing	Julie	Ann	Member				

(Attach additional sheet if necessary)

6. List all Stockholders / percentage owners who own 10% or more:

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
Rohlfing	Julie	Ann		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Rohlfing	Charles	Allen	100%				

(Attach additional sheet if necessary)

7. If the corporation/ L.L.C are owned by another entity, attach an Organizational FLOWCHART showing the structure of the ownership. Attach additional sheets as needed in order to disclose the Officers, Directors, Members, Managers, Partners, Stockholders and percentage owners of those entities.

SECTION 12 Person to Person Transfer

Questions to be completed by Current Licensee (Bar and Liquor Stores Only- Series, 06, 07, and 09)

1. Individual Owner / Agent Name: Rolling Charles Allen Entity: Agent/owner
Last First Middle (Individual, Agent, Etc)

2. Ownership Name: _____
(Exactly as it appears on license)

3. Business Name: Q-Bar & Grill
(Exactly as it appears on license)

4. Business Location Address: 6750 W. Olive Ave Peoria AZ 85345
Street City State Zip

5. License Type: 6 License Number: 06070095

6. Current Mailing Address: [Redacted] Flag AZ 85019
Street City State Zip

7. Have all creditors, lien holders, interest holder, etc. been notified? Yes No

8. Does the applicant intend to operate the business while this application is pending? Yes No

If yes, complete Section 5 (Interim Permit) of this application; attach fee, and current license to this application.

9. I, (print full name) Charles Allen Rolling hereby authorize the department to process this Application to transfer the privilege of the license to the applicant provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, (print full name) Charles Allen Rolling declare that I am the CURRENT OWNER, MEMBER, PARTNER STOCKHOLDER or LICENSEE of the stated license. I have read the above Section 11 and confirm that all statements are true, correct and complete.

X [Redacted Signature]

NOTARY

State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this 18 day of JUNE, 2015

My commission expires on _____ Day / Month / Year

OFFICIAL SEAL
JUANITA A. ESPARZA
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires September 10, 2015

Signature [Redacted]

SECTION 13 Proximity to Church or School

Questions to be completed by all in-state applicants EXCLUDING those applying for a Series 5 Government, Series 11 Hotel/Motel, and Series 12 Restaurant licenses.

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

1. Distance to nearest School: _____ Address: _____
(if less than one (1) mile note footage) Name of School: _____

2. Distance to nearest Church: _____ Address: _____
(if less than one (1) mile note footage) Name of Church: _____

SECTION 14 Business Financials

1. I am the: Lessee Sub-lessee Owner Purchaser Management Company

2. If the premise is leased give lessors: Name: Pollack Investments
 Address: 1136 W. Baseline Rd Mesa AZ 85212
Street City State Zip

3. Monthly Rent/ Lease Rate: \$ 3,666.00

4. What is the remaining length of the lease? 1 yrs 8 months

5. What is the penalty if the lease is not fulfilled? \$ _____ or other: months times Rent
(Give details-attach additional sheet if necessary)

6. Total money borrowed for the Business not including lease? \$ 0
 Please List Lenders/People you owe money to for business.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip

(Attach additional sheet if necessary)

7. What type of business will this license be used for (be specific)?

Bar

8. Has a license or a transfer license for the premises on this application been denied by the state with in the past (1) year? Yes No If yes, attach explanation.

9. Does any spirituous liquor manufacture, wholesaler, or employee have an interest in your business? Yes No

10. Is the premises currently license with a liquor license? Yes No

If yes, give license number and licensee's name:

License #: 06070095 Individual Owner /Agent Name: Charles Allen Rohlfing
(Exactly as it appears on license)

SECTION 15 Restaurant or hotel/motel license applicants

- 1. Is there an existing Restaurant or Hotel/Motel Liquor License at the proposed location? Yes No
- 2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.
- 3. All Restaurant and Hotel/Motel applicants must complete a Restaurant Operation Plan form provided by the Department of Liquor Licenses and Control.
- 4. As stated in A.R.S. § 4-205.02. (H)(2), a Restaurant is an establishment which derives at least forty (40) percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from sales of food and spirituous liquor on the licensed premises. By applying for this Restaurant Hotel/Motel, I certify that I understand that I must maintain a minimum of forty (40) percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit form with this application.

(Applicant's Signature)

5. I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing; specify why the extension is necessary; and the new inspection date you are requesting.

(Applicant's Initials)

SECTION 16 Diagram of Premises

Check ALL boxes that apply to your business:

- Entrances/Exits Liquor storage areas Patio: Contiguous
- Walk-up windows Drive-up windows Non Contiguous

1. Is your licensed premises currently closed due to construction, renovation or redesign? Yes No
If yes, what is your estimated completion date? _____

Month/Day/Year

- 2. Restaurants and Hotel/Motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Place for diagram is on section 16 number 6.
- 3. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored on the premises unless it is a restaurant (see # 3 above).
- 4. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01 (B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to the boundaries, entrances, exits, added or deleted doors, windows, service windows or increase or decrease to the square footage after submitting this initial diagram

(Applicant's Initials)

SECTION 17 SIGNATURE BLOCK

Charles Allen Rokling
(Print Full Name)

whereby declare that I am the Owner/Agent filing this application as stated in Section 4 # 1.

I have read this application and verify all statements to be true, correct and complete.



State of Arizona County of Maricopa

The foregoing instrument was acknowledge before me this

18 of June, 2015



My commission expires on _____



A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 21R

Date Prepared: September 14, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Katie Gregory, Deputy Finance and Budget Director

THROUGH: Brent Mattingly, Chief Financial Officer

THROUGH: Jeff Tyne, Deputy City Manager

SUBJECT: **Resolution authorizing a loan with the Water Infrastructure Finance Authority (WIFA) to fund the acquisition of the New River Utility Company and Approval of a Budget Adjustment.**

Purpose:

This is a request for the City Council to adopt a Resolution, authorizing the City's acceptance of terms associated with a loan from the Water Infrastructure Finance Authority (WIFA) in the amount of \$14,000,000 to fund the acquisition of the New River Utility Company and to make certain improvements to the system upon acquisition. In addition, this item requests that the Council review and approve a budget adjustment in the amount of \$10,000,000 to fund the anticipated final acquisition price of the New River Utility Company when the Agreement is concluded.

Background/Summary:

Following discussions with Council to discuss the potential acquisition of the New River Utility Company, staff engaged New River's current customer base to determine the level of support of a City acquisition of the company and found that attitudes were positive. Staff also engaged consulting support to help evaluate a fair purchase price for the New River system and analyze the financial feasibility of assuming operations over an extended period of time. Staff further met with New River ownership to assess the current conditions of the New River infrastructure and made initial estimates of the costs necessary to incorporate the New River system into the City's water system and improve its assets to the City's standards.

While the above efforts were underway, staff conducted purchase discussions with New River ownership and are nearing completion of a sale agreement to acquire the assets and stock of the New River Utility Company for an amount equal to \$10,000,000. Staff applied for a loan from the Water Infrastructure Finance Authority (WIFA) in the amount of \$14,000,000 to finance the acquisition and initial one-time start-up and transition costs. WIFA's Board voted to approve the City's loan request on August 19, 2015. WIFA has provided the attached Loan Documents with terms and conditions for the Council's acceptance.

Assumption of New River's current water system by the City is tentatively anticipated to begin by December 1, 2015 and is subject to approval by the Arizona Corporation Commission. Upon acquisition, the City will begin additional efforts to transition New River customers and its assets to the City. These efforts will include such things as: notification and continuous communications to existing New River customers, construction of additional inter-connections between the two respective systems to improve redundancy and water pressure, replacement of water meters with City-compatible meters, coordination and transition of billing information, acquisition of additional surface water rights originally held by the New River Utility Company, and beginning to assess and improve New River system infrastructure where necessary.

Previous Actions:

A public outreach meeting was conducted on May 28, 2014 with residents served by the New River Utility Company to determine the level of interest in a potential City acquisition.

A study session was conducted on October 21, 2014 to present findings of the public outreach/civic engagement process and customer survey regarding the potential acquisition of NRUC.

An Executive session was held on April 7, 2015 to update Council on progress and status of efforts regarding the potential acquisition of the NRUC.

An Executive session was held on April 21, 2015 to update Council on progress and status of efforts regarding the potential acquisition of the NRUC.

An Executive session was held May 19, 2015 to update Council on progress and status of efforts regarding the potential acquisition of the NRUC.

On June 23, 2015, City staff submitted a Project Finance Application with WIFA requesting a \$14,000,000 loan for purposes of acquiring the New River Utility Company and making system additions and improvements upon acquisition.

On July 7, 2015, at the regular Council Meeting, Council approved a draft Agreement, contingent upon the successful completion of further procedural items, to acquire the New River Utility Company for the amount equal to \$10,000,000. Council also adopted a Notice of Intention to establish water rates and established August 26, 2015 as the date of a public hearing to consider adoption of these rates.

On July 24, 2015 and again on July 31, 2015, the City advertised a Notice of Intention to Establish water rates in the Peoria Times newspaper informing the public of the August 26, 2015 public hearing.

On August 19, 2015, the WIFA Board reviewed and approved the City's loan application for \$14,000,000 to fund the acquisition of the New River Utility Company. Closing of the loan was to be contingent upon approval of terms by the City Council and approval by the Arizona Corporation Commission of the sale of the New River Utility Company.

On August 26, 2015, at the regular Council Meeting, Council adopted water rates, effective October 1, 2015 that would be applicable to customers of the New River Utility Company upon the City's acquisition and operation of the system.

Options:

A: That the Mayor and Council adopt Resolution 2015-103 accepting the loan terms with the Water Infrastructure Finance Authority for a \$14,000,000 loan with a term of 20 years at an interest rate not to exceed 4.25%. That the Mayor and Council approve a budget adjustment of \$10,000,000 from the Water Fund contingency to make funds available for expenditure following the conclusion of a Purchase Agreement for the New River Utility Company.

B: That the Mayor and Council may elect to not adopt Resolution 2015-103 accepting the loan terms with the Water Infrastructure Finance Authority for a \$14,000,000 loan with a term of 20 years at an interest rate not to exceed 4.25%. Not accepting the terms of the loan would void the terms of the City's proposed loan with WIFA, eliminating the availability of funding and would prevent the City from acquiring the New River Utility Company. That the Mayor and Council may elect to not approve a budget adjustment of \$10,000,000 from Water Fund contingency to make funds available for expenditure following the conclusion of a Purchase Agreement for the New River Utility Company.

Staff's Recommendation:

Staff recommends that the Council adopt Resolution 2015-103 accepting the loan terms with the Water Infrastructure Finance Authority for a \$14,000,000 loan with a term of 20 years at an interest rate not to exceed 4.25%. Secondly, that the Mayor and Council approve a budget adjustment of \$10,000,000 from the Water Fund contingency (2050-2050-570000) to the WIFA Water Bonds capital account (2270-2350-543002) make funds available for expenditure following the conclusion of a Purchase Agreement for the New River Utility Company.

Fiscal Analysis:

The City's final interest rate on the loan will be closer to 2.5% rather than the 4.25% stated in the loan documents and upon which the schedules provided in the loan documents are based. The final interest rate will be established at the loan's closing and will reflect a favorable 85% subsidy applied to the "AAA Municipal Bond Index" by WIFA due to the City's strong bond ratings and the City's favorable borrowing history with WIFA.

The proposed loan would increase the Water Fund's annual debt service obligations by approximately \$950,000 beginning in FY2017, depending on how quickly the funds are drawn

from WIFA. Revenues from New River customers are estimated to exceed this debt service requirement and the annual costs of operations. Amounts for the system's acquisition and additional operating obligations will require Council's authorization of additional budget appropriation for the estimated expenditures in FY2016. Additional operating supplemental budget requests will then be necessary for amounts estimated to be needed for the full FY2017 period.

Upon approval, prepare a budget adjustment of \$10,000,000 from Water Fund contingency (2050-2050-570000) to the WIFA Water Bonds capital account (2270-2350-543002).

Contact Name and Number: Katie Gregory, Deputy Director, Finance
773-7364

EXHIBITS:

EXHIBIT 1: Resolution 2015-103

EXHIBIT 2: WIFA Loan Documents



**Water Infrastructure
Finance Authority
of Arizona**

**Arizona's Drinking Water
Revolving Fund**

City of Peoria

Loan Agreement #920260-16

TBD

Borrower Copy



City of Peoria and

Water Infrastructure Finance Authority of Arizona

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Loan Resolution 2016-003 – City of Peoria
Water Infrastructure Finance Authority of Arizona

Section 1: Resolution

WHEREAS, the Water Infrastructure Finance Authority of Arizona (the "Authority") has received from City of Peoria (the "Local Borrower") a request for a loan (the "Loan"); and

WHEREAS, the Authority has determined that the Local Borrower has met the requirements of Arizona Revised Statutes §49-1201 et seq. (the "Act") and the rules promulgated thereunder (the "Rules"); and

WHEREAS, the terms and conditions under which a Loan will be made and the obligations of the Local Borrower will be set forth in a loan agreement or bond purchase agreement (the "Loan Agreement") to be executed by the Local Borrower and the Authority.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUTHORITY AS FOLLOWS:

The Executive Director of the Authority is hereby authorized and directed to execute a Loan Agreement with the Local Borrower to evidence a Loan in accordance with the Act, the Rules, the Local Borrower's applications to the Authority, and the Project Summary detailed in Section 2 of this Loan Resolution.

The Executive Director and other Authority officials, as appropriate, are authorized and directed to sign any document and take such actions as necessary and appropriate to consummate the transactions contemplated by this Resolution and the Loan Agreement and to ensure that the Local Borrower has completed all requirements of the Authority as detailed in Section 3, Section 4, and Section 5 of this Loan Resolution.

This Resolution shall take effect immediately and shall terminate one year from the date of Board Action.

Dated: August 19, 2015

By:  _____
Chairman

Attest:  _____
Executive Director

Loan Resolution 2016-003 – City of Peoria

Water Infrastructure Finance Authority of Arizona

Section 2: Project Summary

2.1 Project Number(s)

DW 012-2016

2.2 Project Priority Data

<u>PL Rank</u>	<u>Funding Cycle</u>	<u>Population Served</u>	<u>Subsidy Rate</u>
6	DW 2016	159,540	85%

2.3 Project Description(s)

The City of Peoria will purchase the assets and the CAP allocation of the New River Utility Company, and make the following upgrades to the New River system:

- Improve well sites
 - Security – install intrusion alarms, motion sensors, cameras, increase wall height and/or replace chain link fence with concrete masonry unit walls, replace substandard gates with secure gates
 - Change out radios and antennas
 - Remove irrigation standpipe connections
 - Replace chlorine systems and install eye washes
 - Stabilize grading and retention areas
 - Rehabilitate one reservoir and tank
 - Conduct full condition assessments at each well site
- Install two new interconnections with the Company’s system
- Replace and integrate meters into the City’s current radio-read system

2.4 Previous Board or Committee Actions

FY 2013 Technical Assistance Funding Cycle - Board awarded the City of Peoria \$35,000 for clean water technical assistance for a recharge well impact study and design of a new reclaimed booster station and reservoir to support expansion of the reclaimed water system.

October 14, 2009 – Board adopted ARRA Resolution No. 2010-004 for \$1,780,000 (Loan No. 92A180-10) to construct water lines.

May 27, 2009 – Board adopted ARRA Resolution No. 2009-022 for \$8,484,204 (Loan No. 92A149-10) to construct transmission pipelines, install SCADA equipment, well rehabilitation, and booster upgrades.

Loan Resolution 2016-003 – City of Peoria

Water Infrastructure Finance Authority of Arizona

May 27, 2009 – Board adopted ARRA Resolution No. 2009-021 for \$4,021,623 (Loan No. 91A119-10) to repair sewer lines and install a solar generating facility.

May 27, 2009 – Board adopted ARRA Resolution No. 2009-020 for \$1,577,978 (Loan No. 91A118-10) to rehabilitate trunk sewer lines.

April 15, 2009 – Board adopted Loan Resolution No. 2009-015 for \$6,647,179 to construct waterlines. A loan was not executed.

April 15, 2009 – Board adopted Loan Resolution No. 2009-014 for \$4,545,000 (Loan No. 910117-10) to upgrade at the Beardsley Wastewater Reclamation Facility.

October 18, 2006 – Board adopted Resolution Addendum No. A2006-026 to increase the amount of Loan Resolution Addendum No. 2006-019 from \$57,500,136 to \$78,500,136 resulting in three loans (Loan No. 910089-07A for \$27,183,342; Loan 910089-08B for \$42,741,541; and Loan No. 910089-08C for \$8,575,253) to fund construction of the Butler Wastewater Treatment Facility and New River-Agua Fria Underground Storage Plant in three phases and to complete pipeline alignment projects.

June 21, 2006 – Board adopted Loan Resolution No. 2006-020 for \$16,200,000 to purchase two smaller water systems. A loan was not executed.

June 21, 2006 – Board adopted Loan Resolution No. 2006-019 for up to \$57,500,136 to fund construction of the Butler Wastewater Treatment Facility and New River-Agua Fria Underground Storage Plant in three phases and to complete pipeline alignment projects (See Resolution Addendum A2006-026 dated October 18, 2006 above).

September 7, 1999 – Board adopted Loan Resolution No. 99-028 to approve entering into a loan agreement using funding from the sale of WIFA bonds (Loan No. 920031 implemented in three phases at \$20,150,000, \$14,500,000, and \$1,964,789) to construct a surface water treatment plant adjacent to Salt River Project's Arizona Canal.

June 24, 1997 – Board adopted a loan resolution to approve entering into a loan agreement using funding from the sale of WIFA bonds (Loan No. 910025-98 for \$14,330,000) to complete expansion of the Beardsley Wastewater Reclamation Facility and construction of sewer lines.

July 11, 1995 – Board adopted a loan resolution to approve entering into a Loan Agreement using funding from the sale WIFA bonds (Loan No. 910009-96 for \$11,405,081) to purchase additional capacity in the City of Tolleson's Wastewater Reclamation Facility and to design expansion of the City of Peoria's Beardsley Wastewater Reclamation Facility.

2.5 Project Finance Committee Recommendations

N/A

Loan Resolution 2016-003 – City of Peoria
Water Infrastructure Finance Authority of Arizona

Section 3: Financial Assistance Terms & Conditions (Section 7.1 of Due Diligence)

Financial Assistance Amount: \$14,000,000.00

Primary Repayment Source: Water and Wastewater System Revenues

Secondary Repayment Source: None

Loan Term: 20 years

Frequency of Repayment: Semi-Annual

Loan Structure: Standard Governmental - Level 1

Debt Service Reserve Fund Requirements: No Requirement

Repair and Replacement Fund Requirements: No Requirement

Requirements Prior to Loan Execution:

Require Legal Opinion: Yes

Other: No Requirement

Requirements Prior to Construction: No Requirement

Requirement During Construction: No Requirement

Requirements Prior to Final Disbursements: No Requirement

Loan Category: Qualified, Not Pledged

Policy Exceptions: None

Section 4: Technical Terms & Conditions (Section 7.2 of Due Diligence)

Observation Schedule A:

Observation 1: Upon borrower notification of construction commencement

Final Observation: 80% construction budget disbursement

Withholding Percentage: 10% (released after deliverables received)

Loan Resolution 2016-003 – City of Peoria
Water Infrastructure Finance Authority of Arizona

Requirements Prior to Loan Execution: No Requirement

Requirements Prior to Construction:

Prior Review and Approval of Construction Bids: Yes

Project Publicity/Signage X Yes No

Per EPA's June 2015 public awareness guidance, the City plans to install construction signage, issue a press release, and feature the project on the City's website and social media platforms.

Other: No Requirement

Requirements During Construction:

Prior Review of Changes in Project Scope: Yes

The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Other: No Requirement

Requirements Prior to Final Disbursements:

Require Plan of Operation: No Requirement

Require Final Approval: Yes

Other: No Requirement

Policy Exceptions: None

Section 5: Additional Notice & Reporting Requirements (Section 7.3 of Due Diligence)

WIFA to generate Press Release: Yes

Other: Wage rate reporting requirements; Use of American Iron and Steel requirements

Loan Agreement

Water Infrastructure Finance Authority of Arizona
(the “Authority”)

and

City of Peoria
(the “Local Borrower”)

Evidencing a Loan from the
Authority to the Local Borrower

Dated as of TBD

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Exhibit F Replacement Reserve Requirements

Exhibit G Form of Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

Loan Agreement

This Loan Agreement (this “*Loan Agreement*”) is made and entered into as of **TBD** by and between the Water Infrastructure Finance Authority of Arizona (the “*Authority*”), and City of Peoria (the “*Local Borrower*”), a political subdivision of the State of Arizona.

This Loan Agreement includes the attached Exhibits and the attached Standard Terms and Conditions. Any capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Exhibits and the Standard Terms and Conditions.

The Authority and the Local Borrower agree as follows:

Article 1 Description of the Loan

Section 1.1 Name and Address of Local Borrower.

City of Peoria
Attention: Ms. Katie Gregory, Deputy Director, Finance & Budget Dept.
8401 West Monroe Street
Peoria, Arizona 85345
Telephone: 623-773-7364
Fax: 623-773-7033

Section 1.2 Authorized Officer(s) of Local Borrower.

City of Peoria
Attention: Mr. Brent Mattingly, Chief Financial Officer
8401 West Monroe Street
Peoria, Arizona 85345
Telephone: 623-773-7134
Fax: 623-773-7033

Section 1.3 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Local Borrower at the address specified in Section 1.1 and to the Authority at the following address:

Executive Director
Water Infrastructure Finance Authority of Arizona
1110 West Washington Street, Suite 290
Phoenix, Arizona 85007
Telephone: (602) 364-1310
Fax: (602) 364-1327

Any of the parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 1.4 Loan Information. The terms of the Loan include the terms set forth in the Exhibits, which are part of this Loan Agreement:

- Exhibit A** Financial Assistance Terms and Conditions; Borrower Payment Instructions; and Loan Repayment Schedule
- Exhibit B** Technical Assistance Terms and Conditions
- Exhibit C** Reporting Requirements
- Exhibit D** Source of Repayment
- Exhibit E** Debt Service Reserve Requirements
- Exhibit F** Replacement Reserve Requirements
- Exhibit G** Form of Opinion of Counsel to Borrower
- Exhibit H** Tax Compliance Certificate of Local Borrower

Prior to Loan Closing, the Local Borrower must deliver to the Authority the Opinion of Local Borrower Counsel in the form of Exhibit G and the Tax Compliance Certificate of Local Borrower in the form of Exhibit H, signed and dated the date of Loan Closing.

Article 2 Description Of The Project

Section 2.1 Description of Project. The Project is described in Project Summary attached to the Loan Resolution of the Authority, and in Exhibit B of this Loan Agreement.

Section 2.2 Description of System. The term “System” means and includes all of the properties and facilities of the complete Water and Wastewater plant and system of the Local Borrower, whether lying within or without the boundaries of the Local Borrower, as now existing and as they may hereafter be improved or extended, all improvements, additions and extensions thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise and all contracts, rights, agreements, leases and franchises of every nature owned by the Local Borrower and used or useful or held for use in the operation of said plant and system or any part or portion thereof.

Article 3 Loan to Local Borrower; Amounts Payable

Section 3.1 The Loan. The Authority shall loan and disburse to the Local Borrower in accordance with this Article 3 an amount listed in Exhibit A (the “Loan”), and the Local Borrower shall borrow and accept from the Authority, the Loan in the principal amount determined pursuant to this Article 3; provided, however, that (i) the Authority shall be under no obligation to disburse any amount of the Loan if an Event of Default has occurred and is continuing under this Loan Agreement, and (ii) the amount to be disbursed shall be lawfully

available for disbursement. The Local Borrower shall use the proceeds of the Loan strictly in accordance with the requirements of this Loan Agreement.

Section 3.2 Disbursements of Loan Proceeds. The Authority may disburse funds by check, by electronic means or by means of magnetic tape or other transfer medium. Except as hereinafter provided, disbursements shall be made only when (i) the request for disbursements is in substantially the form provided by the Authority and is accompanied by the necessary certifications and documentation and (ii) an Authorized Officer of the Authority has determined that such disbursement is proper. An Authorized Officer of the Authority shall approve disbursements directly to the persons or entities entitled to payment or to the Local Borrower in the case of reimbursement for costs of services already paid, and shall provide the Local Borrower with a copy of the approval and the date approved. Disbursements may be made only for Eligible Project Costs.

Section 3.3 Amounts Payable. The Local Borrower shall pay to the Authority the amounts shown in Exhibit A on or before the dates shown in Exhibit A, as the same may be adjusted as provided in the Standard Terms and Conditions, to reflect any revisions to the principal repayment schedule of the Loan. Such payments shall be made by electronic funds transfer or by direct debit to the Authority, in each case in accordance with payment instructions in Exhibit A.

Section 3.4 Tax Covenants.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its bonds (“Authority Bonds”) from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority’s interest for the Loan to qualify and be an obligation that bears interest that is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become “arbitrage bonds” within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that

end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Section, “bond counsel opinion” means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

IN WITNESS WHEREOF, the Authority and the Local Borrower have caused this Loan Agreement to be executed and delivered as of the date of execution hereof.

Water Infrastructure Finance Authority of Arizona

By: _____
Sandy Sutton, Executive Director

City of Peoria

By: _____
Brent Mattingly, Chief Financial Officer

Attest:

By: _____
Clerk

LOAN AGREEMENT ADDENDUM

Wage Rate Requirements for Compliance with P.L. 111-88

Water Infrastructure Finance Authority of Arizona

This document (this "Wage Rate Addendum") sets forth additional requirements applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") that are subject to the requirements of federal Public Law 111-88, "Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," enacted October 30, 2009 ("P.L. 111- 88"). The provisions in this Wage Rate Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under P.L. 111-88, and that the requirements of P.L. 111-88 include those set forth in this Wage Rate Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement.

Additional Requirement for Subrecipients that are not Governmental Entities:

Obtaining Wage Determinations - Under this Wage Rate Addendum, the non-governmental borrower must submit its proposed Davis Bacon wage determinations to WIFA for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors. **THIS PARAGRAPH DOES NOT APPLY TO GOVERNMENTAL ENTITIES.**

Section 1. Wage Rate Requirements

The following language must be included in all Davis Bacon covered construction contracts and subcontracts. (29 CFR Part 5.5)

(a) The Local Borrower shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the

DWSRF, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in Sec. 5.1, or the FFY 2010 appropriation, the following clauses:

(1) **Minimum wages.** (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Local Borrowers may obtain wage determinations from the U. S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The Local Borrower, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The WIFA award official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Local Borrower agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Local Borrower to the WIFA award official. The WIFA award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA Davis Bacon Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the WIFA award official or will notify the WIFA award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Local Borrower do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the WIFA award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding.** The Local Borrower shall upon its own action or upon written request of WIFA, EPA award official or an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or

any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records.** (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Local Borrower. Such documentation shall be available on request of WIFA or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5 (a)(1) based on the most recent payroll copies for the specified week. **The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number).** The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Local Borrower for transmission to WIFA or EPA, if requested by EPA, WIFA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of

compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Local Borrower.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of WIFA, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or WIFA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship

Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the

ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Local Borrower, WIFA, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility.** (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) **Contract Work Hours and Safety Standards Act.** The Local Borrower shall insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Sec. 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Local Borrower, upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR Sec. 5.1, the Local Borrower shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such

records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Local Borrower shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of WIFA, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Section 2. General Provisions.

(a) Binding Effect. This Wage Rate Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this Wage Rate Addendum shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This Wage Rate Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This Wage Rate Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This Wage Rate Addendum shall be governed by and construed in accordance with the laws of the State of Arizona.

(f) Captions. The captions or headings in this Wage Rate Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this Wage Rate Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Wage Rate Addendum.

(h) Arbitration. The parties hereto agree to use arbitration to the extent required by Section 12-1518 of the Arizona Revised Statutes.

(i) Notice Regarding A.R.S. § 38 511. To the extent applicable by provision of law, the parties acknowledge that this Wage Rate Addendum is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are hereby incorporated herein.

WIFA and the Local Borrower are signing this Wage Rate Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Sandra Sutton, Executive Director

City of Peoria

By: _____

Brent Mattingly, Chief Financial Officer

[Signature page to Wage Rate Addendum to Loan Agreement]

LOAN AGREEMENT ADDENDUM

American Iron and Steel Requirements for Compliance with Federal Law

Water Infrastructure Finance Authority of Arizona

This document (this "American Iron and Steel Addendum") sets forth additional requirements made applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") by federal law. The provisions in this American Iron and Steel Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under federal law, and that the requirements of federal law include those set forth in this American Iron and Steel Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement.

Federal law requires that WIFA include in all assistance agreements, including the Loan Agreement, for the construction, alteration, maintenance, or repair of treatment works under the Clean Water State Revolving Fund and for the construction, alteration, maintenance, or repair of a public water system under the Drinking Water State Revolving Fund, a provision requiring the application of American Iron and Steel requirements for the entirety of the construction activities financed by the assistance agreement through completion of construction, no matter when construction commences. Whether or not the project has multiple sources of funding, the American Iron and Steel requirements apply to the entire project and not just to the activities funded by the money made available to WIFA by the federal government.

Section 1. American Iron and Steel Requirements. In accordance with federal law:

(a)(1) None of the funds made available to WIFA as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

Section 2. General Provisions.

(a) Binding Effect. This American Iron and Steel Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this American Iron and Steel Addendum shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This American Iron and Steel Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This American Iron and Steel Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This American Iron and Steel Addendum shall be governed by and construed in accordance with the laws of the State of Arizona and applicable federal law.

(f) Captions. The captions or headings in this American Iron and Steel Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this American Iron and Steel Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this American Iron and Steel Addendum.

(h) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(i) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(j) Notice of Arizona Revised Statutes Section 38-511 - Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this American Iron and Steel Addendum under the law of the State of Arizona.

[SIGNATURE PAGE FOLLOWS]

WIFA and the Local Borrower are signing this American Iron and Steel Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Sandy Sutton, Executive Director

City of Peoria

By: _____

Brent Mattingly, Chief Financial Officer

[Signature page to American Iron and Steel Addendum to Loan Agreement]

Exhibit A of Loan Agreement

Section 1: Financial Assistance Terms and Conditions

City of Peoria

20-Aug-15

Loan Number..... 920260-16

Closing Date..... 09/18/15

First Payment Period..... 01/01/16

Financial Assistance Terms and Conditions

Original Loan Amount as of the Closing Date.....	\$ 14,000,000.00
Loan Amount.....	\$ 14,000,000.00
Loan Term.....	20
Combined Interest & Fee Rate.....	4.250%
Total # of Payment Periods within Loan Term.....	40

Principal Repayments

Period Principal Repayments Begin.....	2
First Principal Repayment Date.....	07/01/16
Final Principal Repayment Date.....	07/01/35

Combined Interest and Fee Payment Dates

First Combined Interest and Fee Payment Date*.....	01/01/16
Final Combined Interest and Fee Payment Date.....	07/01/35

* Actual initial Combined Interest and Fee payment calculated only on dollar amount drawn against loan as of initial payment date

Debt Service Reserve Fund Requirements

Total Reserve Amount.....	None
Annual Amount.....	None
Reserve Funded by (Date).....	Not Applicable

Repair and Replacement Fund Requirement

Begin Funding on (Date).....	Not Applicable
Annual Amount.....	None
Semi-Annual Deposit.....	None

Annual Payment

Years 1 through 5.....	\$ 1,053,077.69
Years 6 through 10.....	\$ 1,053,077.69
Years 11 through 15.....	\$ 1,053,077.69
Years 16 through 20.....	\$ 1,053,077.69

Section 2: Loan Repayment Schedule
City of Peoria
20-Aug-15

Year Period		Semi-Annual Payment Dates	Combined Interest and Fee Rate	Semi-Annual Combined Interest and Fee Payment	Annual Principal Repayment	Total Annual Payment
1	1	01/01/16	4.250%	170,236.11		
1	2	07/01/16	4.250%	297,500.00	458,077.69	925,813.80
2	3	01/01/17	4.250%	287,765.85		
2	4	07/01/17	4.250%	287,765.85	477,545.99	1,053,077.69
3	5	01/01/18	4.250%	277,617.99		
3	6	07/01/18	4.250%	277,617.99	497,841.71	1,053,077.69
4	7	01/01/19	4.250%	267,038.86		
4	8	07/01/19	4.250%	267,038.86	518,999.97	1,053,077.69
5	9	01/01/20	4.250%	256,010.11		
5	10	07/01/20	4.250%	256,010.11	541,057.47	1,053,077.69
6	11	01/01/21	4.250%	244,512.64		
6	12	07/01/21	4.250%	244,512.64	564,052.41	1,053,077.69
7	13	01/01/22	4.250%	232,526.53		
7	14	07/01/22	4.250%	232,526.53	588,024.63	1,053,077.69
8	15	01/01/23	4.250%	220,031.00		
8	16	07/01/23	4.250%	220,031.00	613,015.69	1,053,077.69
9	17	01/01/24	4.250%	207,004.42		
9	18	07/01/24	4.250%	207,004.42	639,068.85	1,053,077.69
10	19	01/01/25	4.250%	193,424.21		
10	20	07/01/25	4.250%	193,424.21	666,229.27	1,053,077.69
11	21	01/01/26	4.250%	179,266.84		
11	22	07/01/26	4.250%	179,266.84	694,544.01	1,053,077.69
12	23	01/01/27	4.250%	164,507.78		
12	24	07/01/27	4.250%	164,507.78	724,062.13	1,053,077.69
13	25	01/01/28	4.250%	149,121.45		
13	26	07/01/28	4.250%	149,121.45	754,834.79	1,053,077.69
14	27	01/01/29	4.250%	133,081.21		
14	28	07/01/29	4.250%	133,081.21	786,915.27	1,053,077.69
15	29	01/01/30	4.250%	116,359.27		
15	30	07/01/30	4.250%	116,359.27	820,359.15	1,053,077.69
16	31	01/01/31	4.250%	98,926.63		
16	32	07/01/31	4.250%	98,926.63	855,224.43	1,053,077.69
17	33	01/01/32	4.250%	80,753.11		
17	34	07/01/32	4.250%	80,753.11	891,571.47	1,053,077.69
18	35	01/01/33	4.250%	61,807.22		
18	36	07/01/33	4.250%	61,807.22	929,463.25	1,053,077.69
19	37	01/01/34	4.250%	42,056.13		
19	38	07/01/34	4.250%	42,056.13	968,965.43	1,053,077.69
20	39	01/01/35	4.250%	21,465.61		
20	40	07/01/35	4.250%	21,465.61	1,010,146.39	1,053,077.61
				6,934,289.83	14,000,000.00	20,934,289.83

Exhibit B

Technical Terms and Conditions

**Section 1
Budget**

Uses by Budget Item	Amount Budgeted
Planning.....	\$0.00
Design & Engineering.....	\$153,000.00
Legal/Debt Authorization.....	\$0.00
Financial Advisor.....	\$0.00
Land/System Acquisition.....	\$10,000,000.00
Equipment/Materials.....	\$2,378,000.00
Construction/Installation/Improvement.....	\$449,000.00
Inspection & Construction Management.....	\$0.00
Project Officer.....	\$0.00
Administration.....	\$0.00
Staff Training.....	\$0.00
Capitalized Interest.....	\$0.00
Refinance Loan.....	\$0.00
Other.....	\$1,020,000.00
Total Budget.....	\$14,000,000.00

**Section 2
Project Description**

The City of Peoria will purchase the stock and the CAP allocation of the New River Utility Company, and make the following upgrades to the New River system:

- Improve well sites
 - Security – install intrusion alarms, motion sensors, cameras, increase wall height and/or replace chain link fence with concrete masonry unit walls, replace substandard gates with secure gates
 - Change out radios and antennas
 - Remove irrigation standpipe connections
 - Replace chlorine systems and install eye washes
 - Stabilize grading and retention areas
 - Rehabilitate one reservoir and tank
 - Conduct full condition assessments at each well site
- Install two new interconnections with the Company’s system
- Replace and integrate meters into the City’s current radio-read system

Section 3
Estimated Observation and Disbursement Schedule

Observation Schedule A:

Observation 1: Upon borrower notification of construction commencement

Final Observation: 80% construction budget disbursement

Additional Observations – A WIFA representative may perform additional observations based on information provided in the projects status reports included in each Local Borrower disbursement requisition form.

Withholding Percentage: 10% (released after deliverables received)

Section 4
Requirements Prior To Construction

Section 4.1 **Construction Bids.** The Local Borrower shall submit to the Authority for review and approval prior to execution:

- (a) engineering contracts related to the Project,
- (b) bid documents related to the Project,
- (c) construction contracts related to the Project, and
- (d) certification of positive effort for disadvantaged business enterprise participation.

Section 4.2 **User Charges.** The Local Borrower has established (or, if the System is not yet in operation, the Local Borrower will, at or before the time the System commences operation, establish) a system of user charges which, with other funds lawfully available, will at all times be sufficient to pay the costs of operation and maintenance of the System, including renewals and replacements of the System. The Local Borrower also agrees that such system of user charges will be established and maintained in compliance with any applicable requirements of state and federal law as long as the Local Borrower owes amounts under this Loan Agreement. The Local Borrower at its sole option may pay the costs of operation, maintenance, repair, replacement, extensions and additions to the System from any funds lawfully available to it for such purpose.

Section 4.3 **Interest in Project Site.** As a condition of the Loan, the Local Borrower will demonstrate to the satisfaction of the Authority that the Local Borrower has or will have a fee simple or such other estate or interest in the site of the Project, including necessary easements and rights-of-way, as the Authority finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project.

Section 4.4 **Federal Clean Water Act.** The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.5 **Federal Safe Drinking Water Act.** The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.6 **Signs.** The Local Borrower shall select one of the following options to publicize information on the Project and funding sources. The Authority shall provide guidelines for the selected option(s).

- Standard construction site signage
- Posters or wall signage in a public building or location
- Newspaper or periodical advertisement for project construction, groundbreaking ceremony, or operation of the new or improved facility
- Online signage placed on a community website or social media outlet
- Press release

Section 5 Requirements During Construction

Section 5.1 **Changes in Project Scope.** The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Section 5.2 **Completion of Project and Provision of Moneys Therefor.** The Local Borrower covenants and agrees (a) to exercise its best efforts in accordance with prudent utility construction practice to complete the Project and (b) to the extent permitted by law, to provide from its own fiscal resources all moneys, in excess of the total amount of loan proceeds it receives hereunder and under any subsequent loan from the Authority, required to complete the Project.

Section 5.3 **Inspections; Information.** The Local Borrower shall permit the Authority and any party designated by the Authority to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith.

Section 5.4 **Adjustments for Ineligible Costs.** The Local Borrower shall promptly reimburse the Authority for any portion of the Loan which is determined to have been used for costs that are not eligible for funding under the Authority Act, the Federal Clean Water Act, as amended, or the Federal Safe Drinking Water Act, as amended, unless such matter is curable in some other manner by the Local Borrower to the satisfaction of the Authority. Such reimbursement shall be promptly repaid to the Authority upon written request of the Authority. Any such reimbursed principal amount will be applied to reduce the outstanding principal amount of the Loan.

Section 5.5 **Archaeological Artifacts.** In the event that archaeological artifacts or historical resources are discovered during construction excavation of the Project, the Local Borrower shall stop or cause to be stopped construction activities and will notify the State Historic Preservation Office and the Authority of such discovery.

Section 6 Requirements Prior To Final Disbursements

Section 6.1 **Plan of Operation.** No Requirement.

Section 6.2 **Final Approval.** Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

Exhibit C

Reporting Requirements

Section 1. **Annual Loan Review.** The Authority's Annual Loan Review Form and annual financial statements in a format approved by the Authority, including the report of any annual audit(s) and all audit reports required by governmental auditing standards and any applicable Arizona rules, shall be provided by the Local Borrower to the Authority within one-hundred and eighty (180) days after the end of each fiscal year of the Local Borrower. The Local Borrower shall complete all audits and submit all reports required by the federal Single Audit Act within the time limits under that federal law, currently within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the federal agency that provided the funding or a different period is specified in a program-specific audit guide.

Section 2. **Records and Accounts.** The Local Borrower shall keep accurate records and accounts for the System, including records and accounts for the Project (the "*System Records*"), separate and distinct from its other records and accounts (the "*General Records*"). The Local Borrower must maintain the System Records in accordance with generally accepted accounting principles (GAAP), including standards relating to the reporting of infrastructure assets, as issued by the Governmental Accounting Standards Board (GASB) or by the Financial Accounting Standards Board (FASB), as applicable to the Local Borrower. If required by law, the Local Borrower must have the System Records audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Local Borrower. The Local Borrower must make all System Records and General Records available for inspection by the Authority at any reasonable time.

Section 3. **Notice of Change In Key Personnel.** Promptly after becoming aware thereof, the Local Borrower shall provide notice in writing to the Authority of any change to the information in Section 1 of the Loan Agreement and any other change in key personnel connected to the Project and Loan.

Section 4. **Notice of Material Adverse Change.** The Local Borrower shall promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise), of the Local Borrower relating to the System, or in the ability of the Local Borrower to make all Loan Repayments from the Source of Repayment described in this Loan Agreement and otherwise to observe and perform its duties, covenants, obligations and agreements hereunder.

Section 5. **Disadvantaged Business Enterprise (DBE) Program.** The Local Borrower must report DBE participation to the Authority based on guidance from the Authority.

Section 6. **Notice of Default.** Promptly after becoming aware thereof, Local Borrower shall give notice to the Authority of (i) the occurrence of any Event of Default under the Loan Agreement or (ii) the occurrence of any breach, default, Event of Default, or event which with the giving of notice or lapse of time, or both, could become a material breach, default, or Event of Default (a "Future Breach") under any agreement, indenture, mortgage, or other instrument

(other than the Loan Agreement) to which the Local Borrower is a party or by which it or any of its property is bound or affected. Local Borrower shall provide written notice to the Authority if the effect of such breach, default, Event of Default or Future Breach is to accelerate, or to permit the acceleration of, the maturity of any indebtedness under such agreement, indenture, mortgage, or other instrument; provided, however, that the failure of the Local Borrower to give such notice shall not affect the right and power of the Authority to exercise any and all of the remedies specified herein.

Section 7. **Notice of Construction Commencement.** The Local Borrower shall promptly notify the Authority immediately upon commencement of construction activities.

Section 8. **Notice of Non-Environmental Litigation.** Promptly after the commencement or overt threat thereof, Local Borrower shall provide the Authority with written notice of the commencement of all actions, suits, or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting Local Borrower which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 9. **Notice of Environmental Litigation.** Without limiting the provisions of Section 8 above, promptly after receipt thereof, Local Borrower shall provide the Authority with written notice of the receipt of all pleadings, orders, complaints, indictments, or other communication alleging a condition that may require Local Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury to any person or property damage as a result of environmental factors or conditions or which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 10. **Regulatory and Other Notices.** Promptly after receipt or submission thereof, Local Borrower shall provide the Authority with copies of any notices or other communications received from or directed to any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or the ability of Local Borrower to perform its obligations under the Loan Agreement, or which reveals a substantial non compliance with any applicable law, regulation or rule.

Section 11. **Other Information.** The Local Borrower shall submit to the Authority other information regarding the condition (financial or otherwise), or operation of the Local Borrower as the Authority may, from time to time, reasonably request.

Section 12. **Additional Reporting Requirements.** The Local Borrower shall refer to the Loan Agreement Addendum for wage rate reporting requirements.

Exhibit D Source of Repayment: System Revenues

Section 1 Certain Definitions

As used in this Loan Agreement, the following terms shall have the meanings set forth below unless the context clearly requires otherwise:

“Additional Parity Obligations” shall mean any additional parity lien obligations which may hereafter be issued by the Local Borrower having a lien upon and payable from Net Revenues on a parity with the Authority’s 2006 CW Loan, the Authority’s 2008 CW Loan, the Authority’s 2008 CW Second Loan, the Authority’s 2009 CW Loan (Beardsley), the Authority’s 2009 CW Loan (Sewer Rehab & Operations Building), the Authority’s 2009 CW Loan (Section A Sewer Rehab), the Authority’s 2009 DW Loan (Water Lines, Stations Upgrades, Well Rehab), the Authority’s 2009 DW Loan (Waterlines), and the Loan (to which the obligations with respect to the Local Borrower Bonds correspond), and (ii) any additional parity lien bonds which may hereafter be issued by the Local Borrower having a lien upon and payable from Net Revenues on a parity with the Series 2010 Bonds, the Series 2012 Bonds and the Authority Bonds, Phase 3 pursuant to the restrictive provisions of Section 14 of Resolution No. 91-75, as amended.

“Administrative Expenses” shall mean the reasonable cost or value of all services rendered by the Local Borrower and its various departments with respect to the System.

“Authority Bonds, Phase 3” shall mean the Water and Sewer Revenue Bonds (Water Infrastructure Finance Authority Project), Phase 3 of the Local Borrower, dated as of July 26, 2002.

“Authority’s 2006 CW Loan” shall mean the Loan Agreement #910089-07A¹, dated as of December 8, 2006, between the Authority and the Local Borrower.

“Authority’s 2008 CW Loan” shall mean the Loan Agreement #910089-08B, dated as of February 15, 2008, between the Authority and the Local Borrower.

“Authority’s 2008 Second CW Loan” shall mean the Loan Agreement #910089-08C, dated as of May 16, 2008, between the Authority and the Local Borrower.

“Authority’s 2009 CW Loan (Beardsley)” shall mean the Loan Agreement #910177-10 #910117-10², dated as of July 17, 2009, between the Authority and the Local Borrower.

¹ The Authority’s 2008 CW Loan, Authority’s 2008 Second Clean Water Loan, Authority’s 2009 CW Loan (Beardsley), Authority’s 2009 CW Loan (Section A Sewer Rehab), Authority’s 2009 CW Loan (Sewer Rehab & Operations Building), Authority’s 2009 DW Loan (Water Lines, Stations Upgrades, Well Rehab), and Authority’s 2009 DW Loan (Water Lines) are hereby amended to provide the same change thereto.

² The Authority’s 2009 CW Loan (Section A Sewer Rehab), Authority’s 2009 CW Loan (Sewer Rehab & Operations Building), Authority’s 2009 DW Loan (Water Lines, Stations Upgrades, Well Rehab), and Authority’s 2009 DW Loan (Water Lines) are hereby amended to provide the same change thereto.

“Authority’s 2009 CW Loan (Section A Sewer Rehab)” shall mean the Loan Agreement #91A118-10, dated as of July 17, 2009, between the Authority and the Local Borrower.

“Authority’s 2009 CW Loan (Sewer Rehab & Operations Building)” shall mean the Loan Agreement #91A119-10, dated as of July 17, 2009, between the Authority and the Local Borrower.

“Authority’s 2009 DW Loan (Water Lines, Stations Upgrades, Well Rehab)” shall mean the Loan Agreement #92A149-10, dated as of July 17, 2009, between the Authority and the Local Borrower.

“Authority’s 2009 DW Loan (Water Lines)” shall mean the Loan Agreement #92A180-10, dated as of November 20, 2009, between the Authority and the Local Borrower.

“Net Revenues” shall mean that portion of the Revenues remaining after deducting sufficient funds for the Operation and Maintenance Expenses of the System.

“Operation and Maintenance Expenses” shall mean all costs reasonably incurred in connection with the operation, use and maintenance of the System, including (i) repairs necessary to keep the System in efficient and economical operating condition, (ii) the payments of premiums for insurance hereinafter required to be carried on the System, (iii) payments of reasonable Administrative Expenses and (iv) generally all expenses of the System except depreciation, interest expense related to the Loan Agreement, any Outstanding Parity Obligations, any Additional Parity Obligations, and interest expenses on any obligations subordinate to such obligations.

“Outstanding Parity Obligations” shall mean the Series 2010 Bonds, the Series 2012 Bonds and the Authority Bonds, Phase 3 and the Authority’s 2006 CW Loan, the Authority’s 2008 CW Loan, the Authority’s 2008 CW Second Loan, the Authority’s 2009 CW Loan (Beardsley), the Authority’s 2009 CW Loan (Section A Sewer Rehab), the Authority’s 2009 CW Loan (Sewer Rehab & Operations Building), the Authority’s 2009 DW Loan (Water Lines, Station Upgrades, Well Rehab) and the Authority’s 2009 DW Loan (Waterlines).

“Revenues” shall mean and include all income, moneys and receipts to be received by the Local Borrower, directly or indirectly, from the ownership, use or operation of the System including any waste material or by-products of the System, and also including investment income.

“Series 2010 Bonds” shall mean the \$15,780,000 Water and Wastewater Revenue Refunding Bonds, Series 2010, of the Local Borrower, dated as of May 27, 2010.

“Series 2012 Bonds” shall mean the \$23,280,000 Water and Wastewater Revenue Refunding Bonds, Series 2012, of the Local Borrower, dated as of June 28, 2012.

Section 2 Source of Repayment and Rate Covenant Provisions

1. It is understood and agreed that all payments with respect to the Loan shall be made only from the Source of Repayment, which is hereby pledged to the payment of all amounts due under the Loan. The "Source of Repayment" is the Net Revenues of the System as hereinafter provided. The Net Revenues are hereby pledged by the Local Borrower to the payment of all amounts due under the Loan and such amounts shall be secured by a prior and paramount lien on and pledge of the Net Revenues on parity of lien with the pledge and lien granted by the Local Borrower for the payment and security of the Outstanding Parity Obligations. The amounts due under the Loan, the Outstanding Parity Obligations and any Additional Parity Obligations (exclusive of the Local Borrower's repayment obligations with respect to the reserve fund credit instruments in connection with the Series 2010 Bonds, the Series 2012 Bonds, the Authority Bonds, Phase 3, and any similar obligations with respect to reserve fund credit instruments to be entered into by the Local Borrower with respect to Additional Parity Obligations which shall be secured on a subordinate basis), shall be equally and ratably secured by said pledge and lien without one having priority over the other. The Local Borrower intends that this pledge shall be a prior and paramount lien on and a first pledge of such Net Revenues, as will be sufficient to make all payments on the Loan, and the Local Borrower covenants to make the payments under the Loan from Net Revenues, except to the extent that it chooses to make such payments from other legally available funds at its sole option. In no event shall the Local Borrower be required to make the payments on the Loan from any Revenues, receipts or sources not derived from the Net Revenues of the System.

2. The Local Borrower covenants and agrees that it will establish and maintain schedules of rates, fees and charges for all services supplied by the System fully sufficient at all times, after making reasonable allowance for contingencies and errors in estimates, shall produce Revenues in each fiscal year that are sufficient, (a) to pay the Operation and Maintenance Expenses of the System, (b) to produce an aggregate amount of Net Revenues in each fiscal year of the Local Borrower equal to (i) one hundred twenty five percent (125%) of the aggregate of the debt service, loan or rental payments payable on the Outstanding Parity Obligations, the Loan and any Additional Parity Obligations in such fiscal year, and (ii) one hundred percent (100%) of the aggregate of the bond insurance policy costs payable in such fiscal year and other amounts served on a subordinate basis by Net Revenues pursuant to the terms of the authorizing documents related to any obligations described in the preceding clause (i), and (iii) to maintain all necessary fund balances required under the resolutions of the Local Borrower authorizing Outstanding or Additional Parity Obligations under the Loan.

Section 3 Additional Parity Obligations

The Local Borrower covenants and agrees that no other obligations of any kind will be issued that are payable from or enjoy a pledge of the Net Revenues having priority over the Loan.

It is understood and agreed that Additional Parity Obligations having a lien upon and payable from Net Revenues may be issued on parity with the Loan, but only as provided herein and only to provide funds to make improvements and expansions to the existing System, to purchase capacity rights in sewage treatment plant facilities owned by other political subdivisions of the

State, to purchase capacity rights in water treatment plant facilities owned by other political subdivisions of the State, to acquire land, rights in land or water rights for the System, to provide reasonable reserves for Additional Parity Obligations, to refund Outstanding or Additional Parity Obligations or the Loan or to refund other bonds of the Local Borrower, whether revenue bonds, general obligation bonds or other bonds or obligations, issued to provide funds to construct or acquire additions, extensions, improvements, expansions or replacements to the System, subject to the following conditions:

(a) The Local Borrower will not, at the time of the issuance of such Additional Parity Obligations, be in default under any Outstanding Parity Obligations, the Loan or under any resolution related thereto or providing for the issuance of Additional Parity Obligations or any related credit or reserve fund credit instrument;

(b) The issuance of Additional Parity Obligations will be duly authorized at an election, if required by law, except as to any bonds or obligations to be issued exclusively for the purpose of refunding any Outstanding Parity Obligations or Additional Parity Obligations or the Loan;

(c) The issuance of Additional Parity Obligations will be provided for by a resolution duly adopted by the City Council and such Additional Parity Obligations will mature and interest will be paid on the same days of the year as Outstanding Parity Obligations; and

(d) The Net Revenues of the System for the last full fiscal year immediately preceding the issuance of such Additional Parity Obligation, as shown in a certificate or report of an independent public accountant or firm of such accountants presented to the Clerk of the Local Borrower, have been (i) not less than one hundred twenty five percent (125%) of the highest year's debt service on all of the Outstanding Parity Obligations, the Loan and any Additional Parity Obligations then outstanding and on the Additional Parity Obligations then to be issued and (ii) not less than one hundred percent (100%) of the aggregate of bond insurance policy costs then due and owing and (iii) not less than one hundred percent (100%) any additional amounts required to maintain or fund necessary fund balances under the resolutions of the Local Borrower relating to obligations described in (d)(i).

For the purposes of the subparagraph (e d³), additional amounts may be added to the Net Revenues as shown on the accountant's certificate or report in the following circumstances:

(1) If Revenues have been increased as a result of construction of additions or acquisitions to the System made prior to the issuance of such Additional Parity Obligations but during either the fiscal year in which the Additional Parity Obligations are to be issued or in the preceding fiscal year, such increased Revenues may be treated as if such additions to the System were completed on the first day of the fiscal year used for purposes of computation. The Revenues derived from such additions and acquisitions to the System may be converted for purposes of computation to estimated Net Revenues which would have been derived therefrom if said additions and

³ The Authority's 2009 CW Loan (Beardsley), Authority's 2009 CW Loan (Section A Sewer Rehab), Authority's 2009 CW Loan (Sewer Rehab & Operations Building), Authority's 2009 DW Loan (Water Lines, Stations Upgrades, Well Rehab), and Authority's 2009 DW Loan (Water Lines) are hereby amended to provide the same change thereto.

acquisitions had actually been completed on the first day of the year used for computation purposes, such estimates to be made by an independent engineer or firm of such engineers having a favorable reputation with respect to such matters.

(2) If all or part of the proceeds of the Additional Parity Obligations are to be expended for the acquisition of existing water or sewer properties or facilities, there may be added to the Net Revenues of such preceding fiscal year the Net Revenues derived from the operation of such properties or facilities to be acquired as converted to Net Revenues which would have been derived from the operation of such properties or facilities had such properties or facilities been operated by the Local Borrower under the Local Borrower's applicable rate schedule during the entire fiscal year, such converted Net Revenues to be estimated by an independent engineer or firm of such engineers having a favorable reputation with respect to such matters.

(3) If prior to the issuance of the Additional Parity Obligations and subsequent to the first day of such preceding fiscal year, the Local Borrower shall have increased its rates or charges imposed for water and sewer services, there may be added to the Net Revenues of such fiscal year the additional Net Revenues which would have been received from the operation of the System during such fiscal year and such increase been in effect throughout such fiscal year, such additional Net Revenues to be estimated by an independent engineer or firm of such engineers having a favorable reputation with respect to such matters.

In the event Additional Parity Obligations are to be issued exclusively for the purpose of refunding or retiring a portion of the Outstanding or Additional Parity Obligations then outstanding or the Loan, for the purpose of calculation required under this subparagraph (d), the percentage requirement on such obligations will be taken into consideration only in any future fiscal year in which any fractional part of such obligations will remain outstanding after the issuance of such Additional Parity Obligations; provided that nothing herein contained shall be construed to limit or restrict the issuance of any Additional Parity Obligations if, before or as a result of the issuance and delivery of such Additional Parity Obligations, any other obligations theretofore issued will no longer be outstanding, or full payment for any such obligations will be provided for by funds from the bond or obligation proceeds.

Exhibit E Debt Service Reserve Requirement

No Debt Service Reserve Required

The Local Borrower shall not be required to either (i) provide a Reserve Fund Surety or (ii) fund a Reserve Fund in cash in connection with this Agreement.

Exhibit F Replacement Reserve Requirements

No Replacement Reserve Required

The Local Borrower shall not be required to maintain a Replacement Reserve in connection with the Loan.

Exhibit H Form of Tax Compliance Certificate of Local Borrower

Water Infrastructure Finance Authority of Arizona

\$14,000,000.00 Loan to City of Peoria

The Water Infrastructure Finance Authority of Arizona (the “Authority”) and City of Peoria (the “Local Borrower”) are entering into a Loan Agreement (the “Loan Agreement”) in the maximum principal amount stated above pursuant to which the Authority will make a loan (the “Loan”) to the Local Borrower. In connection with its state revolving fund programs, the Authority issues its bonds (“Authority Bonds”) from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority’s interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, in order to establish certain facts necessary for the Loan to qualify and be treated as a Tax-Exempt Obligation that is not an AMT Obligation, and as required by the provisions of the Loan Agreement, the Local Borrower by its officer signing this Certificate, certifies, represents, and covenants as follows with respect to the Loan. All statements in this Certificate are of facts or, as to events to occur in the future, reasonable expectations.

I. DEFINITIONS

1.10. Attachment A. The definitions and cross-references set forth in Attachment A apply to this Certificate and its Attachments. All terms relating to a particular issue, such as Sale Proceeds, relate to the Loan, unless indicated otherwise. (For example, “Sale Proceeds” refers to Sale Proceeds of the Loan, unless indicated otherwise.)

1.20. Special Definitions. Terms used herein, to the extent not defined in Attachment A or below, have the same meaning as defined in the Loan Agreement. In addition, the following definitions apply to this Certificate and its Attachments:

“Instructions” means the Rebate Instructions attached hereto as Attachment A-1.

“Issue” means the Loan.

“Issuer” means the Local Borrower.

“Project” means the financing of a portion of the costs of acquisition, construction and improvement of facilities to be financed by the Loan and includes Issuance Costs and interest on the Loan for up to three years from the Issuance Date or, if later, one year after the date the Project is placed in service, all of which are governmental purposes for purposes of the Code.

“Reserve Fund” is defined in 3.40(a).

1.30. References. Reference to a Section means a section of the Code. Reference by number only (for example, “2.10”) means that numbered paragraph of this Certificate. Reference to an Attachment means an attachment to this Certificate.

II. ISSUE DATA

2.10. Issuer. The Issuer is a Governmental Unit.

2.20. Purpose of Issue. The Issue is being issued to provide funds to pay costs of the Project.

2.30. Dates. The Sale Date of the Issue is the date on which the Loan Agreement is executed and delivered by the Authority and the Local Borrower, and the Issuance Date of the Issue is the first date on which the aggregate draws under the Loan exceed the lesser of \$50,000 or 5% of the principal amount of the Loan.

2.40. Issue Price. The Issue Price of the Issue is the principal amount actually advanced by the Authority to the Issuer as the Loan.

2.50. Sale Proceeds, Net Proceeds, and Net Sale Proceeds. The amount of Sale Proceeds equals the Issue Price. The amount of Net Proceeds equals the Issue Price minus the amount of Proceeds (if any) deposited in the Reserve Fund (if any). The amount of Net Sale Proceeds equals the amount of Net Proceeds minus the Minor Portion.

2.60. Disposition of Sale Proceeds. There will be no Pre-Issuance Accrued Interest with respect to the Issue. The Sale Proceeds will be used to pay costs of the Project and, if applicable, to fund the Reserve Fund (if any).

2.70. Higher Yielding Investments. Gross Proceeds will not be invested in Higher Yielding Investments except for (A) the Minor Portion to the extent provided in 3.80, (B) those Gross Proceeds identified in 3.10, 3.20, and 3.30, but only during the applicable Temporary Periods there described for those Gross Proceeds, and (C) Gross Proceeds held in the Reserve Fund (if any) to the extent set forth in 3.40(a).

2.80. Single Issue. No other obligations have been or will be sold less than 15 days before or after the Sale Date pursuant to the same plan of financing with the Issue that are expected to be paid from substantially the same source of funds as the Issue, determined without regard to guarantees from a person who is not a Related Party to the Issuer. Accordingly, no obligations other than those of the Issue are a part of a single issue with the Issue.

III. ARBITRAGE (NONREBATE) MATTERS

3.10. Use of Net Sale Proceeds and Pre-Issuance Accrued Interest; Temporary Periods.

(A) Pre-Issuance Accrued Interest. There will be no Pre-Issuance Accrued Interest with respect to the Issue.

(B) Payment of Costs of the Project.

(1) All of the Net Sale Proceeds will be used to pay costs of the Project. Such Sale Proceeds may be used to acquire or hold Higher Yielding Investments for a period ending on the third anniversary of the Issuance Date (such period being the Temporary Period for such amount) because the following three tests are reasonably expected to be satisfied:

(i) At least 85% of the Net Sale Proceeds will be allocated to expenditures on the Project by the end of the Temporary Period;

(ii) Within 6 months of the Issuance Date, the Issuer will incur substantial binding obligations to third parties to expend at least 5% of the Net Sale Proceeds on the Project; and

(iii) Completion of the Project and allocation of the Net Sale Proceeds to expenditures will proceed with due diligence.

Any Sale Proceeds that remain unspent on the third anniversary of the Issuance Date, which is the expiration date of the Temporary Period for such Proceeds, shall not be invested in Higher Yielding Investments with respect to the Issue after that date except as part of the Minor Portion. In complying with the foregoing sentence, the Issuer may take into account “yield reduction payments” (within the meaning of Regulations §1.148-5(c)) paid to the United States.

(2) Any Reimbursement Allocation will qualify as a Reimbursement of Prior Capital Expenditures and will be made by an entry in the financial records of the Issuer kept with respect to the Issue showing that Sale Proceeds of the Issue have been returned to the fund or account of the Issuer from which such amount was originally and temporarily advanced to finance Capital Expenditures paid before this date by not more than (A) 18 months after the later of the date such Capital Expenditures were paid or the date on which the property resulting from such Capital Expenditures and comprising part of the Project was placed in service or (B) three years after the original expenditures were paid.

3.20. Investment Proceeds. Any Investment Proceeds will be used to pay costs of the Project and may be invested in Higher Yielding Investments during the Temporary Period identified in 3.10(B)(1) or, if longer, one year from the date of receipt, such period being the Temporary Period for such Proceeds.

3.30. Payment Fund. Amounts deposited from time to time in the fund of the Issuer from which payments will be made on the Issue, which is a Bona Fide Debt Service Fund, will be used to pay Debt Service on the Issue within 13 months after the amounts are so deposited, such period being the Temporary Period for such amounts.

3.40. Reserve Funds.

(A) Debt Service Reserve Fund. If (and only if) the Loan Agreement requires the funding of a debt service reserve fund (“Reserve Fund”) in cash: The amount of Proceeds of the Loan deposited in the Reserve Fund shall not exceed

10% of the stated principal amount of the Loan. Amounts in the portion of the Reserve Fund allocable to the Issue may be invested in Higher Yielding Investments with respect to the Issue to the extent that such amounts do not exceed the least of (i) 10% of the principal amount of the Issue; (ii) maximum annual Debt Service; and (iii) 125% of average annual Debt Service. Any amounts in the portion of the Reserve Fund allocable to the Issue in excess of the least of these amounts will not be invested in Higher Yielding Investments with respect to the Issue. In complying with the yield restriction set forth in this Section, the Issuer may take into account “yield reduction payments” (within the meaning of Regulations § 1.148-5(c)) timely paid or to be timely paid to the United States because amounts in the Reserve Fund (other than investment earnings) are not reasonably expected to be used to pay Debt Service other than in connection with reductions in the amount required to be in the Reserve Account. The establishing and funding of the Reserve Fund was reasonably required by the Authority as a condition of making the Loan.

(B) Replacement Reserve Fund. If (and only if) the Loan Agreement requires the funding of a replacement reserve fund (“Replacement Reserve Fund”) in cash: The Replacement Reserve Fund may be used for one or more of the following purposes: (i) the acquisition of new, or the replacement of obsolete or worn out, machinery, equipment, furniture, fixtures or other personal property for the Issuer’s utility system, provided that the property is depreciable; (ii) the performance of repairs with respect to the Issuer’s utility system that are of an extraordinary and non-recurring nature, provided that the property is depreciable; (iii) the acquisition or construction of additions to or improvements, extensions or enlargements to, or remodeling of, the Issuer’s utility system, provided that the property is depreciable; and/or (iv) to make Debt Service payments to the Authority on the Issue (collectively, the “Permitted Uses”). The Issuer reasonably expects to use amounts in the Replacement Reserve Fund for Permitted Uses other than to make Debt Service payments to the Authority on the Issue, and therefore there is no reasonable assurance of the availability of those amounts to make Debt Service payments to the Authority on the Issue if the Issuer encounters financial difficulties

3.50. No Other Replacement Fund or Assured Available Funds. Except as described in 3.30 and, if and to the extent applicable, 3.40(A), , the Issuer has not established and does not expect to establish or use any sinking fund, debt service fund, redemption fund, reserve or replacement fund, or similar fund, or any other fund to pay Debt Service on the Issue. Except for money referred to in 3.30 and Proceeds of a Refunding Issue, if any, no other money or Investment Property is or will be pledged as collateral or used for the payment of Debt Service on the Issue (or for the reimbursement of any others who may provide money to pay that Debt Service), or is or will be restricted, dedicated, encumbered, or set aside in any way as to afford the holders of the Issue reasonable assurance of the availability of such money or Investment Property to pay Debt Service on the Issue.

3.60. No Overissuance. The Proceeds of the Issue are not reasonably expected to exceed the amount needed for the governmental purposes of the Issue as set forth in 2.20.

3.70. Other Uses of Proceeds Negated. Except as stated otherwise in this Certificate, none of the Proceeds of the Issue will be used:

(A) to pay principal of or interest on, refund, renew, roll over, retire, or replace any other obligations issued by or on behalf of the Issuer or any other Governmental Unit,

(B) to replace any Proceeds of another issue that were not expended on the project for which such other issue was issued,

(C) to replace any money that was or will be used directly or indirectly to acquire Higher Yielding Investments,

(D) to make a loan to any person or other Governmental Unit,

(E) to pay any Working Capital Expenditure other than expenditures identified in Regulations §1.148-6(d)(3)(ii)(A) and (B) (i.e., Issuance Costs of the Issue, Qualified Administrative Costs, reasonable charges for a Qualified Guarantee or for a Qualified Hedge, interest on the Issue for a period commencing on the Issuance Date of the Issue and ending on the date that is the later of three years from such Issuance Date or one year after the date on which the project financed or refinanced by the Issue was or will be placed in service, payments of the Rebate Amount, and costs, other than those already described, that do not exceed 5% of the Sale Proceeds and that are directly related to Capital Expenditures financed or deemed financed by the Issue, principal or interest on an issue paid from unexpected excess Sale Proceeds or Investment Proceeds, and principal or interest on an issue paid from investment earnings on a reserve or replacement fund that are deposited in a Bona Fide Debt Service Fund), or

(F) to reimburse any expenditures made prior to the Issuance Date except those that qualify as a Reimbursement of Prior Capital Expenditures.

No portion of the Issue is being issued solely for the purpose of investing Proceeds in Higher Yielding Investments.

3.80. Minor Portion. The Minor Portion is equal to the lesser of 5% of the Sale Proceeds of the Issue and \$100,000. Such Minor Portion may be invested in Higher Yielding Investments with respect to the Issue.

3.90. No Other Replacement Proceeds. That portion of the Issue that is to be used to finance Capital Expenditures has a weighted average maturity that does not exceed 120% of the weighted average reasonably expected economic life of the property resulting from such Capital Expenditures.

IV. REBATE MATTERS

4.10. Issuer Obligation Regarding Rebate. Consistently with its covenants contained in the Loan Agreement, the Issuer will calculate and make, or cause to be calculated and made,

payments of the Rebate Amount in the amounts and at the times and in the manner provided in Section 148(f) with respect to Gross Proceeds to the extent not exempted under Section 148(f)(4) and the Instructions.

4.20. No Avoidance of Rebate Amount. No amounts that are required to be paid to the United States will be used to make any payment to a party other than the United States through a transaction or a series of transactions that reduces the amount earned on any Investment Property or that results in a smaller profit or a larger loss on any Investment Property than would have resulted in an arm's length transaction in which the Yield on the Issue was not relevant to either party to the transaction.

4.30. Exceptions.

(A) Small Issuer Exception. The Issue is exempt under Section 148(f)(4)(D) from the rebate requirement **if all** of the following requirements are satisfied:

(1) The Issuer is a Governmental Unit with general taxing powers within the meaning of Section 148(f)(4)(D), and

(2) No part of the Issue is a Private Activity Bond, and

(3) All of the Net Proceeds will be used for "local governmental activities" of the Issuer within the meaning of Section 148(f)(4)(D) and none of the Net Proceeds will be used for any Private Business Use, and

(4) The aggregate principal amount of all Tax-Exempt Obligations, including the Issue, issued or to be issued by the Issuer, its subordinate entities and entities that issue any such obligations on behalf of the Issuer, or on behalf of which the Issuer issues any such obligations, during the current calendar year does not, and is not reasonably expected to, exceed \$5,000,000. The Tax-Exempt Obligations taken into account for this purpose exclude any Private Activity Bonds and any Current Refunding Portion and Current Refunding Issue to the extent that the amount of such Current Refunding Portion or Current Refunding Issue does not exceed the outstanding amount of the obligations refunded by such Current Refunding Portion or Current Refunding Issue. No entity has been or will be formed or availed of to avoid the purposes of Section 148(f)(4)(D)(i)(IV).

If, but only if, all of the above requirements are satisfied, check here: [____]

and sign here: _____

(B) General Exception. Notwithstanding the foregoing, the computations and payments of amounts to the United States referred to in IV need not be made to the extent that the Issuer will not thereby fail to comply with any requirements of Section 148(f) and the Instructions based on an opinion of bond counsel.

4.40. Election. The Issue is a Construction Issue. The Issuer hereby elects to apply the 2-year spending exception to the rebate requirements on the basis of actual facts instead of the Issuer's reasonable expectations.

V. OTHER TAX MATTERS

5.10. Not Private Activity Bonds or Pool Bonds. No obligation of the Issue will be a Private Activity Bond or a pooled financing bond (within the meaning of Section 149(f)), based on the following:

(A) Not more than 5% of the Proceeds, if any, directly or indirectly, will be used for a Private Business Use and not more than 5%, if any, of the Debt Service on the Issue, directly or indirectly, will be secured by any interest in property used or to be used for a Private Business Use or payments in respect of such property, or will be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a Private Business Use.

(B) Less than 5% of the Proceeds, if any, will be used to make or finance loans to any Private Person or Governmental Unit other than the Issuer.

(C) The lesser of the Proceeds that are being or will be used for any Private Business Use or the Proceeds with respect to which there are payments or (borrowed money) that are being or will be used for any Private Business Use does not exceed \$15,000,000 and none of the Proceeds will be used with respect to an "output facility" (other than a facility for the furnishing of water) within the meaning of Section 141(b)(4).

(D) The Issuer does not expect to sell or otherwise dispose of the Project or any portion thereof during the term of the Issue except for dispositions of property in the normal course at the end of such property's useful life to the Issuer. With respect to tangible personal property, if any, that is part of the Project, the Issuer reasonably expects that:

(1) Dispositions of such tangible personal property, if any, will be in the ordinary course of an established governmental program;

(2) The weighted average maturity of the obligations of the Issue financing such property (treating the obligations of the Issue properly allocable to such personal property as a separate issue for this purpose) will not be greater than 120% of the reasonably expected actual use of such property for governmental purposes;

(3) The fair market value of such property on the date of disposition will not be greater than 25% of its cost;

(4) The property will no longer be suitable for its governmental purposes on the date of disposition; and

(5) The amounts received from any disposition of such property are required to be, and will be, commingled with substantial tax or other governmental revenues and will be spent on governmental programs within 6 months from the date of such deposit and commingling.

5.20. Issue Not Federally Guaranteed. The Issue is not Federally Guaranteed.

5.30. Not Hedge Bonds. At least 85% of the Spendable Proceeds will be used to carry out the governmental purposes of the Issue within three years from the Issuance Date. Not more than 50%, if any, of the Proceeds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more (including but not limited to any investment contract or fixed yield investment having a maturity of four years or more). The reasonable expectations stated above are not based on and do not take into account (A) any expectations or assumptions as to the occurrence of changes in market interest rates or changes of federal tax law or regulations or rulings thereunder or (B) any prepayments of items other than items that are customarily prepaid.

5.40. Hedge Contracts. The Issuer has not entered into, and does not reasonably expect to enter into, any Hedge with respect to the Issue, or any portion thereof. The Issuer acknowledges that entering into a Hedge with respect to the Issue, or any portion thereof, may change the Yield and that Bond Counsel should be contacted prior to entering into any Hedge with respect to the Issue in order to determine whether payments/receipts pursuant to the Hedge will be taken into account in computing the Yield.

5.50. Internal Revenue Service Information Return. Within the time and on the form prescribed by the Internal Revenue Service under Section 149(e), the Issuer will file with the Internal Revenue Service an Information Return setting forth the required information relating to the Issue. The information reported on that Information Return will be true, correct, and complete to the best of the knowledge and belief of the undersigned.

5.60. Responsibility of Officer.

(A) The officer signing this Certificate is one of the officers of the Issuer responsible for issuing the Issue.

(B) To the best of the knowledge, information, and belief of the undersigned, all expectations stated in this Certificate are the expectations of the Issuer and are reasonable, all facts stated are true, and there are no other existing facts, estimates, or circumstances that would or could materially change the statements made in this Certificate. The certifications and representations made in this Certificate are intended to be relied upon as certifications described in Regulations § 1.148-2(b). The Issuer acknowledges that any change in the facts or expectations from those set forth in this Certificate may result in different requirements or a change in status of the Issue or interest thereon under the Code, and that bond counsel should be contacted if such changes are to occur or have occurred.

City of Peoria

By: _____

Name: _____

Title: _____

List of Attachments

Attachment A -- Definitions for Tax Compliance Certificate

Attachment A-1 -- Rebate Instructions

Attachment A

Definitions for Tax Compliance Certificate of Local Borrower

The following terms, as used in Attachment A and in the Tax Compliance Certificate to which it is attached and in the other Attachments to the Tax Compliance Certificate, have the following meanings unless therein otherwise defined or unless a different meaning is indicated by the context in which the term is used. Capitalized terms used within these definitions that are not defined in Attachment A have the meanings ascribed to them in the Tax Compliance Certificate to which this Attachment A is attached. The word “Issue,” in lower case, refers either to the Issue or to another issue of obligations or portion thereof treated as a separate issue for the applicable purposes of Section 148, as the context requires. The word “obligation” or “obligations,” in lower case, includes any obligation, whether in the form of bonds, notes, certificates, or any other obligation that is a “bond” within the meaning of Section 150(a)(1). All capitalized terms used in this Certificate include either the singular or the plural. All terms used in this Attachment A or in the Tax Compliance Certificate to which this Attachment A is attached, including terms specifically defined, shall be interpreted in a manner consistent with Sections 103 and 141-150 and the applicable Regulations thereunder except as otherwise specified. All references to Section, unless otherwise noted, refer to the Code.

“Advance Refunding Issue” means any Refunding Issue that is not a Current Refunding Issue.

“Advance Refunding Portion” means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as an Advance Refunding Issue if it had been issued as a separate issue.

“AMT Obligation” means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

“Available Construction Proceeds” means an amount equal to (a) the sum of (i) the Issue Price of an issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocable to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocable to the underwriter’s discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocable to the issue. “Available Construction Proceeds” does not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocable to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the project financed by the issue is substantially completed, provided, however, that such Investment Proceeds or earnings shall be excluded from “Available Construction Proceeds” if the Issuer has timely elected such exclusion. If an issue is a Multipurpose Issue that includes a New Money Portion that is a Construction Issue, this definition shall be applied by substituting “New Money Portion” for “issue” each place the latter term appears. If an issue or the New Money Portion of a Multipurpose Issue, as applicable, is

not a Construction Issue, and the Issuer makes the bifurcation election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting “Construction Portion” for “issue” each place the latter term appears.

“Bona Fide Debt Service Fund” means a fund, including a portion of or an account in that fund (or in the case of a fund established for two or more issues, the portion of that fund properly allocable to an issue), or a combination of such funds, accounts or portions that is used primarily to achieve a proper matching of revenues with Debt Service on an issue within each Bond Year and that is depleted at least once each year except for a reasonable carryover amount not to exceed the greater of the earnings thereon for the immediately preceding Bond Year or one-twelfth of the annual Debt Service on the issue for the immediately preceding Bond Year.

“Bond Year” means the annual period relevant to the application of Section 148(f) to an issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of an issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

“Capital Expenditures” means costs of a type that are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of Placed in Service) under general federal income tax principles.

“Code” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“Commingled Fund” means any fund or account of the Issuer that contains both Gross Proceeds of an issue and amounts in excess of \$25,000 that are not Gross Proceeds of the issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account.

“Commingled Investment Proceeds” means Investment Proceeds of an issue (other than Investment Proceeds held in a Refunding Escrow) that are deposited in a Commingled Fund with substantial tax or other revenues from governmental operations of the Issuer and that are reasonably expected to be spent for governmental purposes within 6 months from the date of deposit in the Commingled Fund, using any reasonable accounting assumptions.

“Conduit Borrower” means the obligor on a purpose investment.

“Conduit Financing Issue” means an issue the Proceeds of which are reasonably expected to be used to finance one or more Conduit Loans.

“Conduit Loan” means a purpose investment acquired by the Issuer with Proceeds of a Conduit Financing Issue, thereby effecting a loan to the Conduit Borrower.

“Construction Expenditures” means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

“Construction Issue” means an issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization. If an issue is a Multipurpose Issue that includes a New Money Portion, this definition shall be applied by substituting “New Money Portion” for “Construction Issue” each place the latter term appears. If an election under Section 148(f)(4)(C)(v) and Regulations §1.148-7(j) is made to bifurcate an issue or the New Money Portion of a Multipurpose Issue, this definition shall be applied by substituting “Construction Portion” for “Construction Issue” each place the latter term appears.

“Construction Portion” means that portion of an issue or the New Money Portion of a Multipurpose Issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization and that finances 100% of the Construction Expenditures.

“Controlled Group” means a group of entities controlled directly or indirectly by the same entity or group of entities within the meaning of Regulations §1.150-1(e).

“Current Refunding Issue” means a Refunding Issue that is issued not more than 90 days before the last expenditure of any Proceeds of the Refunding Issue for the payment of Debt Service on the Refunded Bonds.

“Current Refunding Portion” means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as a Current Refunding Issue if it had been issued as a separate issue.

“Debt Service” means principal of and interest and any redemption premium on an issue.

“Excess Gross Proceeds” means all Gross Proceeds of an Advance Refunding Issue that exceed an amount equal to 1% of the Sale Proceeds of such Advance Refunding Issue, other than Gross Proceeds allocable to: (a) payment of Debt Service on the Refunded Bonds; (b) payment of Pre-Issuance Accrued Interest on the Advance Refunding Issue and interest on the Advance Refunding Issue that accrues for a period up to the completion date of any capital project financed by the Prior Issue, plus one year; (c) a reasonably required reserve or replacement fund for the

Advance Refunding Issue or Investment Proceeds of such fund; (d) payment of Issuance Costs of the Advance Refunding Issue; (e) payment of administrative costs allocable to repaying the Refunded Bonds, carrying and repaying the Advance Refunding Issue, or investments of the Advance Refunding Issue; (f) Transferred Proceeds allocable to expenditures for the governmental purpose of the Prior Issue (treating for this purpose all unspent Proceeds of the Prior Issue properly allocable to the Refunded Bonds as of the Issuance Date of the Advance Refunding Issue as Transferred Proceeds); (g) interest on purpose investments; (h) Replacement Proceeds in a sinking fund for the Advance Refunding Issue; and (i) fees for a Qualified Guarantee for the Advance Refunding Issue or the Prior Issue. If an Issue is a Multipurpose Issue that includes an Advance Refunding Portion, this definition shall be applied by substituting “Advance Refunding Portion” for “Advance Refunding Issue” each place the latter term appears.

“Federally Guaranteed” means that (a) the payment of Debt Service on an issue, or the payment of principal or interest with respect to any loans made from the Proceeds of the issue, is directly or indirectly guaranteed in whole or in part by the United States or by an agency or instrumentality of the United States, within the meaning of Section 149(b) of the Code, or (b) more than 5% of the Proceeds of an issue will be invested directly or indirectly in federally insured deposits or accounts. The preceding sentence does not apply to (a) Proceeds invested during an initial Temporary Period until such Proceeds are needed to pay costs of the project, (b) investments of a Bona Fide Debt Service Fund, (c) direct purchases from the United States of obligations issued by the United States Treasury, or (d) other investments permitted by Section 149(b) or Regulations §1.149(b)-1(b).

“501(c)(3) Organization” means an organization described in Section 501(c)(3) and exempt from tax under Section 501(a).

“Fixed Yield Issue” means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

“Governmental Unit” means a state, territory or possession of the United States, the District of Columbia, or any political subdivision thereof referred to as a “State or local governmental unit” in Regulations §1.103-1(a). “Governmental Unit” does not include the United States or any agency or instrumentality of the United States.

“Gross Proceeds” means Proceeds and Replacement Proceeds of an issue.

“Hedge” means a contract entered into by the Issuer or the Conduit Borrower primarily to modify the Issuer’s or the Conduit Borrower’s risk of interest rate changes with respect to an obligation (e.g., an interest rate swap, an interest rate cap, a futures contract, a forward contract or an option).

“Higher Yielding Investments” means any Investment Property that produces a Yield that (a) in the case of Investment Property allocable to Replacement Proceeds of an issue and Investment Property in a Refunding Escrow, is more than one thousandth of one percentage point (.00001) higher than the Yield on the applicable issue, and (b) for all other purposes is more than one-eighth of one percentage point (.00125) higher than the Yield on the issue.

“Investment Proceeds” means any amounts actually or constructively received from investing Proceeds of an issue in Investment Property.

“Investment Property” means investment property within the meaning of Sections 148(b)(2) and 148(b)(3), including any security (within the meaning of Section 165(g)(2)(A) or (B)), any obligation, any annuity contract and any other investment-type property (including certain residential rental property for family units as described in Section 148(b)(2)(E) in the case of any bond other than a Private Activity Bond). Investment Property includes a Tax-Exempt Obligation that is a “specified private activity bond” as defined in Section 57(a)(5)(C), but does not include other Tax-Exempt Obligations.

“Issuance Costs” means costs to the extent incurred in connection with, and allocable to, the issuance of an issue, and includes underwriter’s compensation withheld from the Issue Price, counsel fees, financial advisory fees, rating agency fees, trustee fees, paying agent fees, bond registrar, certification and authentication fees, accounting fees, printing costs for bonds and offering documents, public approval process costs, engineering and feasibility study costs, guarantee fees other than for a Qualified Guarantee and similar costs, but does not include fees charged by the Issuer.

“Issuance Date” means the date of physical delivery of an issue by the Issuer in exchange for the purchase price of the issue.

“Issue Price” means in the circumstances applicable to an issue:

(1) Public Offering. In the case of obligations actually offered to the general public in a bona fide public offering at the initial offering price for each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, the aggregate of the initial offering price for each maturity (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount), which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity, as of the Sale Date, was sold or reasonably expected to be sold (other than to bond houses, brokers or other intermediaries). In the case of publicly offered obligations that are not described in the preceding sentence, Issue Price means the aggregate of the initial offering price to the public of each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity was sold to the public.

(2) Private Placement. In the case of obligations sold by private placement, the aggregate of the prices (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount) paid to the

Issuer by the first purchaser(s) (other than bond houses, brokers or other intermediaries).

“Minor Portion” means an amount equal to the lesser of \$100,000 or 5% of the Sale Proceeds of an issue.

“Multipurpose Issue” means an issue the bonds of which are allocable to two or more separate governmental purposes within the meaning of Regulations §1.148-9(h).

“Net Proceeds” means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue.

“Net Sale Proceeds” means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue and the portion invested as a part of a Minor Portion for the issue.

“New Money Issue” means an issue that is not a Refunding Issue.

“New Money Portion” means that portion of a Multipurpose Issue other than the Refunding Portion.

“Nonpurpose Investments” means any Investment Property that is acquired with Gross Proceeds as an investment and not in carrying out any governmental purpose of an issue. “Nonpurpose Investments” does not include any investment that is not regarded as “investment property” or a “nonpurpose investment” for the particular purposes of Section 148 (such as certain investments in U.S. Treasury obligations in the State and Local Government Series and certain temporary investments), but does include any other investment that is a “nonpurpose investment” within the applicable meaning of Section 148.

“Placed in Service” means the date on which, based on all the facts and circumstances, a facility has reached a degree of completion that would permit its operation at substantially its design level and the facility is, in fact, in operation at such level.

“Pre-Issuance Accrued Interest” means interest on an obligation that accrued for a period not greater than one year before its Issuance Date and that will be paid within one year after such Issuance Date.

“Preliminary Expenditures” means any Capital Expenditures that are “preliminary expenditures” within the meaning of Regulations §1.150-2(f)(2), *i.e.*, architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project other than land acquisition, site preparation, and similar costs incident to commencement of construction. The aggregate amount of Preliminary Expenditures may not exceed 20% of the aggregate Issue Price of the issue or issues that financed or are reasonably expected to finance the project for which such Preliminary Expenditures are or were incurred.

“Prior Issue” means an issue of obligations all or a portion of the Debt Service on which is paid or provided for with Proceeds of a Refunding Issue. The Prior Issue may be a Refunding Issue.

“Private Activity Bond” means (a) obligations of an issue more than 10% of the Proceeds of which, directly or indirectly, are or are to be used for a Private Business Use and more than 10% of the Debt Service on which, directly or indirectly, is or is to be paid from or secured by payments with respect to property, or secured by property, used for a Private Business Use, or (b) obligations of an issue, the Proceeds of which are or are to be used to make or finance loans to any Private Person that, in the aggregate, exceed the lesser of 5% of such Proceeds or \$5,000,000. In the event of Unrelated or Disproportionate Use, the tests in (a) shall be applied by substituting 5% for 10% each place the latter term is used.

“Private Business Use” means use (directly or indirectly) in a trade or business carried on by any Private Person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a Private Person (other than a natural person) shall be treated as a trade or business. In the case of a Qualified 501(c)(3) Bond, Private Business Use excludes use by a 501(c)(3) Organization that is not an unrelated trade or business activity by such 501(c)(3) Organization within the meaning of Section 513(a).

“Private Person” means any natural person or any artificial person, including a corporation, partnership, trust or other entity, other than a Governmental Unit. “Private Person” includes the United States and any agency or instrumentality of the United States.

“Proceeds” means any Sale Proceeds, Investment Proceeds, and Transferred Proceeds of an issue. “Proceeds” does not include Replacement Proceeds.

“Qualified Administrative Costs” means reasonable direct administrative costs (other than carrying costs) such as separately stated brokerage or selling commissions, but not legal and accounting fees, recordkeeping, custody and similar costs. General overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not Qualified Administrative Costs.

“Qualified 501(c)(3) Bonds” means an issue of obligations that satisfies the requirements of Section 145(a).

“Qualified Guarantee” means any guarantee of an obligation that constitutes a “qualified guarantee” within the meaning of Regulations §1.148-4(f).

“Qualified Hedge” means a Hedge that is a “qualified hedge” within the meaning of Regulations §1.148-4(h)(2).

“Rebate Amount” means the excess of the future value, as of any date, of all receipts on Nonpurpose Investments acquired with Gross Proceeds of an issue over the future value, as of that date, of all payments on those Nonpurpose Investments, computed in accordance with Section 148(f) and Regulations §1.148-3.

“Refunded Bonds” means obligations of a Prior Issue the Debt Service on which is or is to be paid from Proceeds of a Refunding Issue.

“Refunding Bonds” means obligations of a Refunding Issue.

“Refunding Issue” means an issue the Proceeds of which are or are to be used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs of the Refunding Issue.

“Refunding Escrow” means one or more funds established as part of a single transaction, or a series of related transactions, containing Proceeds of a Refunding Issue and any other amounts to be used to pay Debt Service on Refunded Bonds of one or more issues.

“Refunding Portion” means that portion of a Multipurpose Issue the Proceeds of which are, or are to be, used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs properly allocable to the Refunding Portion.

“Regulations” or “Reg.” means Treasury Regulations.

“Reimbursement Allocation” means an allocation of the Proceeds of an issue for the Reimbursement of Prior Capital Expenditures, other than Preliminary Expenditures, that meets each of the following requirements: (a) is evidenced on the books or records of the Issuer maintained with respect to the issue, (b) the allocation entry identifies either actual prior Capital Expenditures, or the fund or account from which the prior Capital Expenditures were paid, and (c) evidences the Issuer’s use of Proceeds of the issue to reimburse a Capital Expenditure for a governmental purpose that was originally paid from a source other than the Proceeds of the issue.

“Reimbursement of Prior Capital Expenditures” means a Reimbursement Allocation of Proceeds of the Issue to a Capital Expenditure paid prior to the Issuance Date of such Issue, that satisfies the following requirements: (a) the Capital Expenditure was paid after March 1, 1992; (b) prior to, or within 60 days after, payment of the Capital Expenditure (except Preliminary Expenditures), the Issuer adopted an official intent for the Capital Expenditure that satisfies Regulations §1.150-2(e); and (c) except for Preliminary Expenditures, the Reimbursement Allocation occurs or will occur within 18 months after the later of the date the Capital Expenditure was paid or the date the project resulting from such Capital Expenditure was Placed in Service or abandoned, but in no event more than 3 years after the Capital Expenditure was paid.

“Related Party” means, in reference to a Governmental Unit or 501(c)(3) Organization, any member of the same Controlled Group and, in reference to any person that is not a Governmental Unit or 501(c)(3) Organization, a “related person” as defined in Section 144(a)(3) of the Code.

“Replacement Proceeds” means, with respect to an issue, amounts (including any investment income, but excluding any Proceeds of any issue) replaced by Proceeds of that issue within the meaning of Section 148(a)(2). “Replacement Proceeds” includes amounts, other than Proceeds, held in a sinking fund, pledged fund or reserve or replacement fund for an issue.

“Sale Date” means, with respect to an issue, the first date on which there is a binding contract in writing with the Issuer for the sale and purchase of an issue (or of respective obligations of the issue if sold by the Issuer on different dates) on specific terms that are not later modified or adjusted in any material respect.

“Sale Proceeds” means that portion of the Issue Price actually or constructively received by the Issuer upon the sale or other disposition of an issue, including any underwriter’s compensation withheld from the Issue Price, but excluding Pre-Issuance Accrued Interest.

“Spendable Proceeds” means the Net Sale Proceeds of an issue.

“Tax-Exempt Obligation” means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150, and includes any obligation or any investment treated as a “tax-exempt bond” for the applicable purpose of Section 148.

“Tax-Exempt Organization” means a Governmental Unit or a 501(c)(3) Organization.

“Temporary Period” means the period of time, as set forth in the Tax Compliance Certificate, applicable to particular categories of Proceeds of an issue during which such category of Proceeds may be invested in Higher Yielding Investments without the issue being treated as arbitrage bonds under Section 148.

“Transferred Proceeds” means that portion of the Proceeds of an issue (including any Transferred Proceeds of that issue) that remains unexpended at the time that any portion of the principal of the Refunded Bonds of that issue is discharged with the Proceeds of a Refunding Issue and that thereupon becomes Proceeds of the Refunding Issue as provided in Regulations §1.148-9(b). “Transferred Proceeds” does not include any Replacement Proceeds.

“Unrelated or Disproportionate Use” means Private Business Use that is not related to or is disproportionate to use by a Governmental Unit within the meaning of Section 141(b)(3) and Regulations §1.141-9.

“Variable Yield Issue” means any Issue that is not a Fixed Yield Issue.

“Working Capital Expenditures” means any costs of a type that do not constitute Capital Expenditures, including current operating expenses.

“Yield” has the meaning assigned to it for purposes of Section 148 of the Code, and means that discount rate (stated as an annual percentage) that, when used in computing the present worth of all applicable unconditionally payable payments of Debt Service, all payments for a Qualified Guarantee, if any, and all payments and receipts with respect to a Qualified Hedge, if any, paid and to be paid with respect to an obligation (paid and to be paid during and attributable to the Yield Period in the case of a Variable Yield Issue), produces an amount equal to (a) the Issue Price in the case of a Fixed Yield Issue or the present value of the Issue Price at the commencement of the applicable Yield Period in the case of a Variable Yield Issue, or (b) the purchase price for yield purposes in the case of Investment Property, all subject to the applicable methods of computation provided for under Section 148, including variations from the foregoing. The Yield on Investment Property in which Proceeds or Replacement Proceeds of an issue are invested is computed on a basis consistent with the computation of Yield on that issue, including the same compounding interval of not more than one year selected by the Issuer.

“Yield Period” means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

The terms “bond”, “obligation”, “reasonably required reserve or replacement fund”, “reserve or replacement fund”, “loan”, “sinking fund”, “purpose investment”, “same plan of financing”, “other replacement proceeds”, and other terms relating to Code provisions used but not defined in this Certificate shall have the meanings given to them for purposes of Sections 103 and 141 to 150 unless the context indicates another meaning.

(End of Attachment A)

ATTACHMENT A-1
to
Tax Compliance Certificate of Local Borrower

INSTRUCTIONS FOR COMPLIANCE WITH REBATE
REQUIREMENTS OF SECTION 148(f) OF THE CODE.

The Issuer covenanted in the Loan Agreement and Tax Compliance Certificate to comply with the arbitrage rebate requirement of Section 148(f) of the Code. These Instructions provide guidance for that compliance, including the spending exceptions that free the Issue from all or part of the rebate requirements.

PART I: GENERAL

SECTION 1.01. REBATE GENERALLY.

The Rebate Amount¹ with respect to the Issue must be paid (rebated) to the United States to prevent the bonds of the Issue from being arbitrage bonds, the interest on which is subject to federal income tax. In general, the Rebate Amount is the amount by which the actual earnings on Nonpurpose Investments purchased (or deemed to have been purchased) with Gross Proceeds of the Issue exceed the amount of earnings that would have been received if those Nonpurpose Investments had a Yield equal to the Yield on the Issue.²

Stated differently, the Rebate Amount for the Issue as of any date is the excess of the Future Value, as of that date, of all Receipts on Nonpurpose Investments over the Future Value, as of that date, of all Payments on Nonpurpose Investments, computed using the Yield on the Issue as the Future Value rate.³

If the Issue is a Fixed Yield Issue, the Yield on the Issue generally is the Yield to maturity, taking into account mandatory redemptions prior to maturity. If the Issue is a Variable Yield Issue, the Yield on the Issue is computed separately for each Yield Period selected by the Issuer.

SECTION 1.02. SPECIAL DEFINITIONS.

^{1.} Capitalized terms that are not defined in these Instructions are defined in Attachment A to the Tax Compliance Certificate of the Issuer.

^{2.} Amounts earned on the Bona Fide Debt Service Fund for the Issue are not taken into account in determining the Rebate Amount since none of the obligations of the Issue are Private Activity Bonds, the rates of interest on the Issue do not vary and the average maturity of the Issue is at least 5 years.

^{3.} The scope of these Instructions does not permit a detailed description of the computation of the Rebate Amount with respect to the Issue. If you need assistance in computing the Rebate Amount on the Issue, please contact your bond counsel.

For purposes of these Instructions, the following terms shall have the following meanings.

“Available Construction Proceeds” means an amount equal to (a) the sum of (i) the Issue Price of the issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocated to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocated to the Underwriter’s discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocated to the issue. Available Construction Proceeds do not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocated to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the Projects financed by the issue is substantially completed. If the issue consists of a New Money Portion and a Refunding Portion and the New Money Portion is a Construction Issue, this definition shall be applied by substituting “New Money Portion” for “issue” each place the latter term appears. If the issue or the New Money Portion, as applicable, is not a Construction Issue, and the Issuer makes the election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting “Construction Portion” for “issue” each place the latter term appears.

“Bifurcated Issue” means a New Money Issue or the New Money Portion of a Multipurpose Issue that the Issuer, pursuant to Section 148(f)(4)(C)(v) and Regulations §1.148-7(j), has elected in its Tax Compliance Certificate to bifurcate into a Construction Portion and a Nonconstruction Portion.

“Bond Counsel’s Opinion” means an opinion or opinions of a nationally recognized bond counsel firm whose opinion is given with respect to the Issue when issued, or its successors or other nationally recognized bond counsel appointed by the Issuer.

“Bond Year” means the annual period relevant to the application of Section 148(f) to the issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of the issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

“Computation Date” means each date on which the Rebate Amount for an issue is required to be computed under Regulations §1.148-3(e). In the case of a Fixed Yield Issue, the first Computation Date shall not be later than 5 years after the Issuance Date of the issue. Subsequent Computation Dates shall be not later than 5 years after the immediately preceding Computation Date for which an installment payment of the Rebate Amount was paid. In the case of a Variable Yield Issue, the first Computation Date shall be the last day of any Bond Year irrevocably selected by the Issuer ending on or before the fifth anniversary of the Issuance Date of such issue and

subsequent Computation Dates shall be the last day of each Bond Year thereafter or each fifth Bond Year thereafter, whichever is irrevocably selected by the Issuer after the first date on which any portion of the Rebate Amount is required to be paid to the United States. The final Computation Date is the date an issue is retired.

“Construction Expenditures” means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

“Construction Issue” means an issue at least 75 percent of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property which is or is to be owned by a Governmental Unit or a 501(c)(3) Organization. If an election has been made in the Issuer’s Tax Compliance Certificate to bifurcate an issue or the New Money Portion, the Construction Portion (i.e., that portion of the issue or the New Money Portion which satisfies the 75 percent test stated in the preceding sentence and which finances 100% of the Construction Expenditures) is treated as the Construction Issue and the balance of the issue or the New Money Portion is treated as the Nonconstruction Portion.

“Fixed Yield Issue” means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

“Future Value” means the value of a Payment or Receipt at the end of a period determined using the economic accrual method as the value of that Payment or Receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the Yield on the Issue, using the same compounding interval and financial conventions that were used to compute that Yield.

“Guaranteed Investment Contract” means any Nonpurpose Investment that has specifically negotiated withdrawal or retirement provisions and a specifically negotiated interest rate and any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

“Multipurpose Issue” means an issue that consists of a Refunding Portion and a New Money Portion.

“Payment” means payments actually or constructively made to acquire Nonpurpose Investments, as specified in Regulations §1.148-3(d)(1)i) through (v).

“Qualified Administrative Costs” means the reasonable, direct administrative costs, other than carrying costs, of purchasing or selling Nonpurpose Investments such as separately stated brokerage or selling commissions. Qualified Administrative Costs do not include legal and accounting fees, recordkeeping, custody, and similar costs, general overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount. In general, Qualified Administrative Costs are not reasonable unless they are comparable to administrative costs that would be charged for the same investment or

a reasonably comparable investment if acquired with a source of funds other than Gross Proceeds of Tax-Exempt Obligations.

“Reasonable Retainage” means an amount, not to exceed 5% of the Net Sale Proceeds of the Issue, that is retained for reasonable business purposes relating to the property financed with Proceeds of the Issue. For example, Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the Issuer reasonably determines that a dispute exists regarding completion or payment.

“Rebate Analyst” means an independent individual, firm or entity experienced in the computation of the Rebate Amount pursuant to Section 148(f) of the Code.

“Receipt” means amounts actually or constructively received from Nonpurpose Investments as specified in Regulations §1.148-3(d)(2)(i) through (iii).

“Variable Yield Issue” means any issue that is not a Fixed Yield Issue.

“Yield Period” means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

PART II: EXCEPTIONS TO REBATE

SECTION 2.01. SPENDING EXCEPTIONS.

The rebate requirements with respect to the Issue are deemed to have been satisfied if any one of three spending exceptions (the 6-Month, the 18-Month, or the 2-Year Spending Exception, collectively, the “Spending Exceptions”) is satisfied. The Spending Exceptions are each independent exceptions. The Issue need not meet the requirements of any other exception in order to use any one of the three exceptions. For example, a Construction Issue may qualify for the 6-Month Spending Exception or the 18-Month Spending Exception even though the Issuer makes one or more elections under the 2-Year Exception with respect to the Issue.

The following rules apply for purposes of all of the Spending Exceptions except as otherwise noted.

Refunding Issues. The only spending exception available for a Refunding Issue⁴ is the 6-Month Spending Exception.

⁴ For purposes of these Instructions, references to “Refunding Issue” include the Refunding Portion of a Multipurpose Issue.

Special Transferred Proceeds Rules. In applying the Spending Exceptions to a Refunding Issue, unspent Proceeds of the Prior Issue that become Transferred Proceeds of the Refunding Issue are ignored. If the Prior Issue satisfies one of the rebate Spending Exceptions, the Proceeds of the Prior Issue that are excepted from rebate under that exception are not subject to rebate either as Proceeds of the Prior Issue or as Transferred Proceeds of the Refunding Issue.

However, if the Prior Issue does not satisfy any of the Spending Exceptions and is not otherwise exempt from rebate, the Transferred Proceeds from the Prior Issue will be subject to rebate, even if the Refunding Issue satisfies the 6-Month Spending Exception. The Rebate Amount will be calculated on the Transferred Proceeds on the basis of the Yield of the Prior Issue up to each transfer date and on the basis of the Yield of the Refunding Issue after each transfer date.

Application of Spending Exceptions to a Multipurpose Issue. If the Issue is a Multipurpose Issue, the Refunding Portion and the New Money Portion are treated for purposes of the rebate Spending Exceptions as separate issues. Thus, the Refunding Portion is eligible to use only the 6-Month Spending Exception. The New Money Portion is eligible to use any of the three Spending Exceptions.

Expenditures for Governmental Purposes of the Issue. Each of the spending exceptions requires that expenditures of Gross Proceeds be for the governmental purposes of the Issue. These purposes include payment of interest (but not principal) on the Issue.

SECTION 2.02. 6-MONTH SPENDING EXCEPTION.

The Issue will be treated as satisfying the rebate requirements if all of the Gross Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue within the 6-month period beginning on the Issuance Date and the Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or a Bona Fide Debt Service Fund if and to the extent that such Fund is subject to rebate (see footnote 3) is timely paid to the United States. If no bond of the Issue is a Private Activity Bond (other than a Qualified 501(c)(3) Bond) or a tax or revenue anticipation bond, the 6-month period is extended for an additional 6 months if the unexpended Gross Proceeds of the Issue at the end of the 6-month period do not exceed the lesser of 5% of the Proceeds of the Issue or \$100,000.

For purposes of the 6-Month Spending Exception, Gross Proceeds required to be spent within 6 months do not include amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue.

SECTION 2.03. 18-MONTH SPENDING EXCEPTION.

The Issue (or the New Money Portion if the Issue is a Multipurpose Issue) is treated as satisfying the rebate requirement if the conditions set forth in (A), (B) and (C) are satisfied.

(A) All of the Gross Proceeds of the Issue (excluding amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue) are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

- (1) at least 15% within 6 months;
- (2) at least 60% within 12 months; and
- (3) 100% within 18 months, subject to the Reasonable Retainage exception described below.

(B) The Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund for the Issue, to the extent such Fund is subject to rebate (see footnote 3), is timely paid to the United States. And,

(C) The Gross Proceeds of the Issue qualify for the initial 3-year Temporary Period.

If the only unspent Gross Proceeds at the end of the 18th month are Reasonable Retainage, the requirement that 100% of the Gross Proceeds be spent by the end of the 18th month is treated as met if the Reasonable Retainage, and all earnings thereon, are spent for the governmental purposes of the Issue within 30 months of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first two spending periods, the amount of Investment Proceeds that the Issuer reasonably expects as of the Issuance Date to earn on the Sale Proceeds and Investment Proceeds of the Issue during the 18-month period are included in Gross Proceeds of the Issue. The final spend-down requirement includes actual Investment Proceeds for the entire 18 months.

The 18-Month Spending Exception does not apply to the Issue (or the New Money Portion, as applicable) if any portion of the Issue (or New Money Portion) is treated as meeting the rebate requirement under the 2-Year Spending Exception discussed below. This rule prohibits use of the 18-Month Spending Exception for the Nonconstruction Portion of a Bifurcated Issue. The only Spending Exception available for the Nonconstruction Portion of a Bifurcated Issue is the 6-Month Spending Exception.

SECTION 2.04. 2-YEAR SPENDING EXCEPTION FOR CERTAIN CONSTRUCTION ISSUES.

(A) In general. A Construction Issue no bond of which is a Private Activity Bond (other than a Qualified 501(c)(3) Bond or a Bond that finances property to be owned by a Governmental Unit or a 501(c)(3) Organization) is treated as satisfying the rebate requirement if the Available Construction Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

- (1) at least 10% within 6 months;
- (2) at least 45% within 1 year;
- (3) at least 75% within 18 months; and
- (4) 100% within 2 years, subject to the Reasonable Retainage exception described below.

Amounts in a Bona Fide Debt Service Fund or a reasonably required reserve or replacement fund for the Issue are not treated as Gross Proceeds for purposes of the expenditure requirements. However, unless the Issuer has elected otherwise in the Tax Compliance Certificate, earnings on amounts in a reasonably required reserve or replacement fund for the Issue are treated as Available Construction Funds during the 2-year period and therefore must be allocated to expenditures for the governmental purposes of the Issue.

If the Issuer elected in the Tax Compliance Certificate to exclude from Available Construction Proceeds the Investment Proceeds or earnings on a reasonably required reserve or replacement fund for the Issue during the 2-year spend-down period, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings from the Issuance Date must be timely paid to the United States. If the election is not made, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings after the earlier of the date construction is substantially completed or 2 years after the Issuance Date must be timely paid to the United States. The Rebate Amount, if any, with respect to earnings on amounts in a Bona Fide Debt Service Fund must be timely paid to the extent such Fund is subject to the rebate requirements (see footnote 3).

The Issue does not fail to satisfy the spending requirement for the fourth spend-down period (i.e., 100% within 2 years of the Issuance Date) if the only unspent Available Construction Proceeds are amounts for Reasonable Retainage if such amounts (together with all earnings on such amounts) are allocated to expenditures within 3 years of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first 3 spend-down periods, Available Construction Proceeds include the amount of Investment Proceeds or earnings that the Issuer reasonably expected as of the Issuance Date to earn during the 2-year period. For purposes of satisfying the final spend-down requirement,

Available Construction Proceeds include actual Investment Proceeds or earnings from the Issuance Date through the end of the 2-year period.

Available Construction Proceeds do not include Gross Proceeds used to pay Issuance Costs financed by the Issue, but do include earnings on such Proceeds. Thus, an expenditure of Gross Proceeds to pay Issuance Costs does not count toward meeting the spend-down requirements, but expenditures of earnings on such Gross Proceeds to pay Issuance Costs do count.

(B) 1½% penalty in lieu of rebate for Construction Issues. If the Issuer elected in the Tax Compliance Certificate for a Construction Issue, or for the Construction Portion of a Bifurcated Issue, to pay a 1½% penalty in lieu of the Rebate Amount on Available Construction Proceeds in the event that the Construction Issue fails to satisfy any of the spend-down requirements, the 1½% penalty is calculated separately for each spend-down period, including each semi-annual period after the end of the fourth spend-down period until all Available Construction Proceeds have been spent. The penalty is equal to 0.015 times the underexpended Proceeds as of the end of the applicable spend-down period. The fact that no arbitrage is in fact earned during such spend-down period is not relevant. The Rebate Amount with respect to Gross Proceeds other than Available Construction Proceeds (e.g., amounts in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund, to the extent subject to rebate (see footnote 3)) must be timely paid.

PART III: COMPUTATION AND PAYMENT.

SECTION 3.01. COMPUTATION AND PAYMENT OF REBATE AMOUNT.

If none of the Spending Exceptions described above is satisfied (and if the 1-1/2% penalty election for a Construction Issue or the Construction Portion of a Bifurcated Issue has not been made), then within 45 days after each Computation Date, the Issuer shall compute, or cause to be computed, the Rebate Amount as of such Computation Date. The first Computation Date is a date selected by the Issuer, but shall be not later than 5 years after the Issuance Date. Each subsequent Computation Date shall end 5 years after the previous Computation Date except that, in a Variable Yield Issue, the Issuer may select annual Yield Periods. The final Computation Date shall be the date the last obligation of the Issue matures or is finally discharged.

Within 60 days after each Computation Date (except the final Computation Date), the Issuer shall pay to the United States not less than 90% of the Rebate Amount, if any, computed as of such Computation Date. Within 60 days after the final Computation Date, the Issuer shall pay to the United States 100% of the Rebate Amount, if any, computed as of the final Computation Date. In computing the Rebate Amount, a computation credit of \$1,000 may be taken into account on the last day of each Bond Year to the Computation Date during which there are unspent Gross Proceeds that are subject to the rebate requirement, and on the final maturity date.

If the operative documents pertaining to the Issue establish a Rebate Fund and require the computation of the Rebate Amount at the end of each Bond Year, the Issuer shall calculate, or cause to be calculated, within 45 days after the end of each Bond Year the Rebate Amount, taking into account the computation credit of \$1,000 for each Bond Year. Within 50 days after the end of

each Bond Year, if the Rebate Amount is positive, the Issuer shall deposit in the Rebate Fund such amount as will cause the amount on deposit therein to equal the Rebate Amount, and may withdraw any amount on deposit in the Rebate Fund in excess of the Rebate Amount. Payments of the Rebate Amount to the Internal Revenue Service on a Computation Date shall be made first from amounts on deposit in the Rebate Fund and second from other amounts specified in the operative documents.

Each payment of the Rebate Amount or portion thereof shall be payable to the Internal Revenue Service and shall be made to the Internal Revenue Service Center, Ogden, UT 84201 by certified mail. Each payment shall be accompanied by Internal Revenue Service Form 8038-T and any other form or forms required to be submitted with such remittance.

SECTION 3.02. BOOKS AND RECORDS.

(A) The Issuer or Trustee, as applicable, shall keep proper books of record and accounts containing complete and correct entries of all transactions relating to the receipt, investment, disbursement, allocation and application of the Gross Proceeds of the Issue. Such records shall specify the account or fund to which each Nonpurpose Investment (or portion thereof) held by the Issuer or Trustee is to be allocated and shall set forth as to each Nonpurpose Investment (1) its purchase price, (2) identifying information, including par amount, interest rate, and payments dates, (3) the amount received at maturity or its sales price, as the case may be, including accrued interest, (4) the amounts and dates of any payments made with respect thereto, and (5) the dates of acquisition and disposition or maturity.

The Issuer, Trustee, or Rebate Analyst, as applicable, shall retain the records of all calculations and payments of the Rebate Amount until six years after the retirement of the last obligation that is a part of the Issue.

SECTION 3.03. FAIR MARKET VALUE.

No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

The fair market value of any Nonpurpose Investment shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in an arms-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). Except as otherwise provided in this Section, a Nonpurpose Investment that is not of a type traded on an established securities market (within the meaning of Section 1273 of the Code) is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(A) Obligations purchased directly from the Treasury. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

(B) Safe harbor for Guaranteed Investment Contracts. The purchase price of a Guaranteed Investment Contract shall be treated as its fair market value on the purchase date if all the following conditions are met:

(1) The Issuer or broker makes a bona fide solicitation for a specified Guaranteed Investment Contract and receives at least three bona fide bids from reasonably competitive providers (of Guaranteed Investment Contracts) that have no material financial interest in the Issue.

(2) The Issuer purchases the highest-yielding Guaranteed Investment Contract for which a qualifying bid is made (determined net of broker's fees);

(3) The Yield on the Guaranteed Investment Contract (determined net of broker's fees) is not less than the Yield then available from the provider on reasonably comparable Guaranteed Investment Contracts, if any, offered to other persons from a source of funds other than Gross Proceeds of Tax-Exempt Obligations;

(4) The determination of the terms of the Guaranteed Investment Contract takes into account as a significant factor the Issuer's reasonably expected drawdown schedule for the amounts to be invested, exclusive of amounts deposited in a Bona Fide Debt Service Fund and a reasonably required reserve or replacement fund;

(5) The terms of the Guaranteed Investment Contract, including collateral security requirements, are reasonable; and

(6) The obligor on the Guaranteed Investment Contract certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the Guaranteed Investment Contract.

(C) Safe harbor for certificates of deposit. The purchase price of a certificate of deposit shall be treated as its fair market value on the purchase date if all of the following requirements are met:

(1) The certificate of deposit has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal; and

(2) The Yield on the certificate of deposit is not less than (a) the Yield on reasonably comparable direct obligations of the United States, or (b) the highest Yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

Certificates evidencing the foregoing requirements should be obtained before purchasing any Guaranteed Investment Contract or certificate of deposit.

SECTION 3.04. CONSTRUCTIVE SALE/PURCHASE.

- (A) Nonpurpose Investments that are held by the Issuer or Trustee as of any Computation Date (or Bond Year if the computations are required to be done annually) shall be treated for purposes of computing the Rebate Amount as of such date as having been sold for their fair market value as of such date. Investment Property which becomes allocated to Gross Proceeds of the Issue on a date after such Investment Property has actually been purchased shall be treated for purposes of the rebate requirements as having been purchased by the Issuer on such date of allocation at its fair market value on such date.
- (B) For purposes of constructive or deemed sales or purchases of Investment Property (other than Investment Property in the Escrow Fund or that is otherwise not invested for a Temporary Period or is not part of a reasonably required reserve or replacement fund for the Issue) must be valued at its fair market value on the date of constructive or deemed sale or purchase
- (C) Except as set forth in (B), fixed rate Investment Property that is (1) issued with not more than 2% of original issue discount or original issue premium, (2) issued with original issue premium that is attributable exclusively to reasonable underwriters' compensation or (3) acquired with not more than 2% of market discount or market premium, may be treated as having a fair market value equal to its outstanding stated principal amount, plus accrued interest. Fixed rate Investment Property also may be treated as having a fair market value equal to its present value.

SECTION 3.05. ADMINISTRATIVE COSTS.

- (A) Administrative costs shall not be taken into account in determining the payments for or receipts from a Nonpurpose Investment unless such administrative costs are Qualified Administrative Costs. Thus, administrative costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire Nonpurpose Investments generally do not increase the Payments for, or reduce the Receipts from, Nonpurpose Investments.
- (B) Qualified Administrative Costs are taken into account in determining the Payments and Receipts on Nonpurpose Investments and thus increase the Payments for, or decrease the Receipts from, Nonpurpose Investments. In the case of a Guaranteed Investment Contract, a broker's commission or similar fee paid on behalf of either the Issuer or the provider is an administrative cost that is not a Qualified Administrative Cost to the extent that the present value (computed using the taxable discount rate used by the parties to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate) of the commission, as of the date the contract is purchased, exceeds the present value of annual payments equal to 0.05 percent of the weighted average amount reasonably expected to be invested each year during the term of such contract.

PART IV: COMPLIANCE AND AMENDMENT

SECTION 4.01. COMPLIANCE.

The Issuer, Trustee or Rebate Analyst, as applicable, shall take all necessary steps to comply with the requirements of these Instructions in order to ensure that interest on the Issue is excluded from gross income for federal income tax purposes under Section 103(a) of the Code. However, compliance shall not be required in the event and to the extent stated therein the Issuer and the Trustee receive a Bond Counsel's Opinion that either (A) compliance with such requirement is not required to maintain the exclusion from gross income for federal income tax purposes of interest on the Issue, or (B) compliance with some other requirement in lieu of such requirement will comply with Section 148(f) of the Code, in which case compliance with the other requirement specified in the Bond Counsel's Opinion shall constitute compliance with such requirement.

SECTION 4.02. LIABILITY.

If for any reason any requirement of these Instructions is not complied with, the Issuer and the Trustee, if applicable, shall take all necessary and desirable steps to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence. The Trustee shall have no duty or responsibility to independently verify any of the Issuer's, or the Rebate Analyst's, calculations with respect to the payments of the Rebate Amount due and owing to the United States. Under no circumstances whatsoever shall the Trustee be liable to the Issuer, any bondholder or any other person for any inclusion of the interest on the Issue in gross income for federal income tax purposes, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, so long as the Trustee acts only in accordance with these Instructions and the operative documents pertaining to the Issue.

(End of Attachment A-1)

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.
Caution: If the issue price is under \$100,000, use Form 8038-GC.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name		2 Issuer's employer identification number (EIN)
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only)
6 City, town, or post office, state, and ZIP code		7 Date of issue
8 Name of issue		9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.		
11 Education		11
12 Health and hospital		12
13 Transportation		13
14 Public safety		14
15 Environment (including sewage bonds)		15
16 Housing		16
17 Utilities		17
18 Other. Describe ►		18
19 If obligations are TANs or RANs, check only box 19a	► <input type="checkbox"/>	
If obligations are BANs, check only box 19b	► <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box	► <input type="checkbox"/>	

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$	\$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)		
22 Proceeds used for accrued interest		22
23 Issue price of entire issue (enter amount from line 21, column (b))		23
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	
25 Proceeds used for credit enhancement	25	
26 Proceeds allocated to reasonably required reserve or replacement fund	26	
27 Proceeds used to currently refund prior issues	27	
28 Proceeds used to advance refund prior issues	28	
29 Total (add lines 24 through 28)		29
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		30

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.	
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	► _____ years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	► _____ years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	► _____
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)	

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35		
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a		
b Enter the final maturity date of the GIC ▶ _____			
c Enter the name of the GIC provider ▶ _____			
37 Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37		
38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:			
b Enter the date of the master pool obligation ▶ _____			
c Enter the EIN of the issuer of the master pool obligation ▶ _____			
d Enter the name of the issuer of the master pool obligation ▶ _____			
39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box			<input type="checkbox"/>
40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box			<input type="checkbox"/>
41a If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:			
b Name of hedge provider ▶ _____			
c Type of hedge ▶ _____			
d Term of hedge ▶ _____			
42 If the issuer has superintegrated the hedge, check box			<input type="checkbox"/>
43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box			<input type="checkbox"/>
44 If the issuer has established written procedures to monitor the requirements of section 148, check box			<input type="checkbox"/>
45a If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement ▶ _____			
b Enter the date the official intent was adopted ▶ _____			

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	▶ _____ Signature of issuer's authorized representative	▶ _____ Date	▶ _____ Type or print name and title	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Firm's name ▶ _____		Firm's EIN ▶ _____	
	Firm's address ▶ _____		Phone no. _____	

LOAN AGREEMENT STANDARD TERMS AND CONDITIONS

Water Infrastructure Finance Authority of Arizona

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This document sets forth Standard Terms and Conditions applicable to the Loan made by the WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (the “*Authority*”) to the Local Borrower. These Standard Terms and Conditions are a part of the Loan Agreement to which this document is attached. Certain terms used herein are defined in Article 8.

Article 1 Covenants of the Local Borrower Relating to the System and the Project.

Section 1.1 **Operation and Maintenance of System.** The Local Borrower covenants and agrees that it shall, in accordance with prudent utility practice, (a) at all times operate the properties of the System and any business in connection therewith in an efficient manner, (b) maintain the System in good repair, working order and operating condition, and (c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the operations carried on in connection therewith shall be properly and advantageously conducted from revenues of the System or, if the Local Borrower so elects, from any other source of funds lawfully available.

Section 1.2 **Additions and Modifications.** The Local Borrower may make any additions, renewals, replacements, modifications or improvements to the System which it deems desirable and which do not materially reduce the operational integrity of any part of the System. All such renewals, replacements, additions, modifications and improvements shall become a part of the System.

Section 1.3 **Disposition of Project and System.**

(a) The Local Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System except upon compliance with the provisions of this Section; provided, however that the requirements of this Section shall not apply to transactions which are capital leases within the meaning of generally accepted accounting principles to finance expansion or improvement of the System and under which the Local Borrower maintains a purchaser’s interest or other beneficial ownership, use, possession and control of the System so long as no default exists.

(b) The Local Borrower may sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System if the Local Borrower shall give at least ninety (90) days’ prior written notice to the Authority of the proposed transaction, and the Authority gives its written consent which shall not be unreasonably withheld. The Local Borrower understands that the Authority, in determining whether or not to give its consent, must determine that the proposed transaction will not adversely affect the Authority’s ability to meet its duties, covenants, obligations and agreements or conditions of any grant received by the Authority or the State from the United States of America, which is related to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act, as amended, and the Federal Safe Drinking Water Act, as amended.

(c) Notwithstanding the provisions of subsection (b) above, the Local Borrower may sell, lease or otherwise dispose of, any of the property comprising part of the System without prior notice to or the consent of the Authority, other than the Project, in either of the following circumstances:

(i) If the Local Borrower determines that such property is not necessary, useful or profitable to the operation of the System; or

(ii) If the value of such property sold, leased or otherwise disposed of in any one year is equal to not more than 5% of the value of the fixed assets of the System.

Section 1.4 **Cost of Project.** The Local Borrower certifies that the estimated Eligible Project Costs as listed in Section 1 of Exhibit B is a reasonable and accurate estimation of the Eligible Project Costs and, upon the direction of the Authority the Local Borrower will supply the Authority with a certificate from its engineer stating that such estimated Eligible Project Costs is a reasonable and accurate estimation.

Article 2 Additional Covenants of the Local Borrower

Section 2.1 **Unconditional Obligations.** The obligation of the Local Borrower to make the Loan Repayments and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part described herein are payable solely from the Source of Repayment described in this Loan Agreement and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments hereunder remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement, or any rights of set-off, recoupment, abatement or counterclaim that the Local Borrower might otherwise have against the Authority or any other party or parties; provided, however, that payments under this Loan Agreement shall not constitute a waiver of any such rights. The Local Borrower shall not be obligated to make any payments required to be made by any other local borrowers under separate loan agreements or local borrower bonds. Notwithstanding any other provision of this Section 2.1, or this Loan Agreement, neither the Authority, nor any assignee of the Authority shall have the right or ability to compel the repayment of this Loan Agreement from any source other than the Source of Repayment.

Section 2.2 **Performance Under Loan Agreement.** The Local Borrower covenants and agrees (a) to maintain the System in good repair and operating condition; (b) to cooperate with the Authority to the extent it may lawfully do so, in the observance and performance of the respective duties, covenants, obligations and agreements of such Local Borrower and the Authority under this Loan Agreement; and (c) to comply with the covenants set forth in this Loan Agreement.

Section 2.3 **Disclaimer of Warranties.** The Local Borrower acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its respective agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the System or the Project; and (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the laws of the United States or of the State.

Section 2.4 **Loan Repayments; Prepayments; Providing for Payment of the Loan.**

(a) Loan Repayments.

(i) The Local Borrower shall pay to the Authority the amounts set forth in the Loan Repayment Schedule contained in Exhibit A on or before the due dates shown in Exhibit A.

(ii) Each payment made as a Loan Repayment as described in subsection (i) shall be applied first to the combined interest and fee payment then due and payable on the Loan and then to the principal amount of the Loan.

(iii) In addition to the other payments required by this Section, the Local Borrower shall pay a late charge for any payment that is received by the Authority later than the tenth day following its due date, in an amount equal to six percent per annum of the amount of the late payment from its due date to the date it is actually paid; provided, however, that the combined interest and fee rate payable on the Loan including such late charge shall not be in excess of the maximum rate permitted by law or any proceedings or resolution authorizing the execution of this Loan Agreement.

(iv) Upon the final disbursement, if the Loan amount is less than the estimated Eligible Project Costs, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service, and the Authority shall compute the adjusted combined interest and fee amounts to reflect the adjusted principal amounts and shall enter the results in a revised Loan Repayment Schedule delivered to the Local Borrower.

(b) Prepayments. The Loan is not subject to prepayment prior to the tenth anniversary of the final loan draw. The Local Borrower may prepay the Principal Repayment Amount of the Loan in whole or in part in advance of the due dates on or after the tenth anniversary of the final loan draw without penalty upon written notice delivered to the Authority at least 60 days prior to the prepayment date. If the Local Borrower prepays the Repayment Principal Amount in part, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service. Upon such adjustment, the Authority shall compute the adjusted combined interest and fees amounts to reflect the adjusted principal amounts and shall enter the results in the Loan Repayment Schedule with notice to the Local Borrower.

(c) Providing for Payment of the Loan. The Local Borrower may at any time provide for the payment and discharge of the Loan, as provided in this subsection. The Loan shall be deemed to have been paid and discharged if:

(i) the Local Borrower has delivered to the Authority proof satisfactory to the Authority that the Local Borrower has deposited with a financial institution acceptable to the Authority, in trust for and irrevocably committed to payments on the Loan, cash or non-callable direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) and obligations of any agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are unconditionally guaranteed by the United States of America, which are of such maturities and interest payment dates, and bear such interest, as will be sufficient together with any moneys also deposited, without further investment or reinvestment of either the principal amount or the interest earnings (which earnings are to be held likewise in trust and so committed), to pay all the amounts due under the Loan, as set forth in the Loan Repayment Schedule contained in Exhibit A, as evidenced in a report of an independent firm of nationally recognized certified public accountants addressed to and delivered to the Authority; and

(ii) the Authority has received a bond counsel opinion (as described in Section 6.2(b) and (c) below) to the effect that the deposit of funds and the investment of such deposit, as described in the preceding paragraph, will not, by itself, adversely affect the exclusion from gross income of interest on the Loan or any Authority Bonds for federal income tax purposes.

Section 2.5 Source of Repayment of Local Borrower's Obligations and Pledge. The Local Borrower irrevocably pledges the Source of Repayment described in this Loan Agreement for the punctual payment of all amounts due under the Loan Agreement. The Authority and the Local Borrower agree that the amounts payable by the Local Borrower under this Loan Agreement are payable solely from the Source of Repayment described in this Loan Agreement and are not payable from any other source whatsoever, unless the Local Borrower chooses to pay, and pays, any amount due hereunder from any other source lawfully available to it.

Section 2.6 Insurance. The Local Borrower shall maintain or cause to be maintained in force, insurance policies with responsible insurers or self-insurance programs or through membership in a risk retention pool, including, but not limited to, the Arizona Municipal Risk Retention Pool (in accordance with the Local Borrower's customary practices) providing against risk of direct physical loss, damage or destruction of the Project and the System, at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining system facilities of the nature of the System, including liability coverage, all to the extent available at reasonable cost.

Section 2.7 No Liens. Except for

(i) the debt service on any future bonds, notes or other evidence of indebtedness of the Local Borrower issued or contractual obligations incurred in accordance with this Loan Agreement payable from the funds pledged to the payment of this Loan Agreement which are on parity with the lien and charge on the funds so pledged to pay this Loan Agreement and

- (ii) as provided in Exhibit D of this Loan Agreement, the debt service on currently outstanding bonds, notes or evidences of indebtedness or contractual obligations of the Local Borrower, if any, payable from the Source of Repayment described in Exhibit D of this Loan Agreement which the Local Borrower has disclosed to the Authority in writing,

the funds so pledged as described in this Loan Agreement after the payment of all costs of operating and maintaining the System, are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto which are prior to, or of equal rank with, the obligation of the Local Borrower to pay this Loan Agreement, and all corporate or other action on the part of the Local Borrower to that end has been and will be duly and validly taken.

Section 2.8 **Disadvantaged Business Enterprises**. As applicable, the Local Borrower shall comply with 40 C.F.R Part 33¹ including but not limited to:

Local Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

- (i) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

- (ii) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

- (iii) Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

- (iv) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

- (v) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.

- (vi) If the prime contractor awards subcontracts, require the prime contractor to take the steps in sections (i) through (v) above.

These conditions must be included in all procurement contracts entered into by the Local Borrower for all DWRP and CWRP projects:

- (i) The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.

- (ii) The prime contractor must notify the owner in writing prior to the termination of any Disadvantage Business Enterprise subcontractor for convenience by the prime contractor.

- (iii) If a Disadvantage Business Enterprise contractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement contractor.

¹ See Article 9 for a full list of applicable federal laws and authorities relating to Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

(iv) The prime contractor must continue to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

(v) The prime contractor must provide EPA Form 6100-2 DBE Program Subcontractor Participation Form to all of its Disadvantaged Business Enterprise subcontractors. Disadvantaged Business Enterprise subcontractors may send completed Form 6100-2 directly to the Region 9 DBE Coordinator listed below.

Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105

(vi) The prime contractor must have its Disadvantaged Business Enterprise subcontractors complete EPA Form 6100-3 – DBE Program Subcontractor Performance Form. The prime contractor must include all completed forms as part of the prime contractor’s bid or proposal package to the Local Borrower.

(vii) The prime contractor must complete and submit EPA 6100-4 DBE Program Subcontractor Utilization Form as part of the prime contractor’s bid or proposal package to the Local Borrower.

(viii) A Local Borrower must ensure that each procurement contract it awards contains the following terms and conditions:

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

Article 3 Representations of Local Borrower

The Local Borrower represents for the benefit of the Authority that the representations contained in this Loan Agreement are true at the time of execution and delivery of this Loan Agreement and, other than with respect to events outside of Local Borrower’s control, will be true in all material respects at all times during the term of this Loan Agreement.

Section 3.1 Organization and Authority.

(a) The Local Borrower is a Political Subdivision or Indian Tribe as defined in the Authority Act.

(b) The Local Borrower has full legal right and authority and has, or will obtain as and when required, all necessary licenses and permits required to acquire, own, operate and maintain the Project and the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, to pledge the Source of Repayment, and to carry out and consummate all transactions contemplated by this Loan Agreement. The Project is a project which the Local Borrower may undertake pursuant to State law and for which the Local Borrower is authorized by law to borrow money.

(c) The proceedings of the Local Borrower’s governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of the State.

(d) This Loan Agreement has been duly authorized, executed and delivered by an Authorized Officer of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement constitutes a legal and valid obligation of the Local Borrower enforceable in accordance with its terms, and the information contained under “Description of the Loan” in this Loan Agreement is true and accurate in all material respects.

Section 3.2 Full Disclosure.

(a) To the best of the Local Borrower's knowledge, there is no fact that the Local Borrower has not disclosed to the Authority in writing that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments due hereunder and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(b) The information relating to the Local Borrower (including without limitation the financial and statistical data contained therein) submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan was at the time of the Authority's approval of the Loan and at all times subsequent thereto up to and including the Loan Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any adverse respect. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority, and each of the Authority's agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and reasonable attorneys' fees incurred as a result of any omission or misstatement of material fact in the information submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan, as it may have been supplemented and amended by the Local Borrower.

Section 3.3 **Pending Litigation.** There are no proceedings pending, or to the knowledge of the Local Borrower, threatened, against or affecting the Local Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement that have not been disclosed in writing to the Authority in the Local Borrower's application for the Loan or otherwise.

Section 3.4 **Compliance with Existing Laws and Agreements.** The authorization, execution and delivery of this Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements hereunder and the consummation of the transactions provided for in this Loan Agreement, the compliance by the Local Borrower with the provisions of this Loan Agreement and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Local Borrower pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of this Loan Agreement and any ordinance or resolution or indenture which authorized outstanding obligations of the Local Borrower which are on a parity with this Loan Agreement as to a lien on, or a source and security for, payment thereon from the source of payment that is pledged to the Loan Repayments) to which the Local Borrower is a party or by which the Local Borrower, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Local Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Local Borrower, the System or its properties or operations are subject.

Section 3.5 **No Defaults.** No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Local Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the ability of the Local Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 3.6 **Governmental Consent.** The Local Borrower has or will have obtained prior to the date of the Loan Closing all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance by the Local Borrower of its duties, obligations and agreements under this Loan Agreement or for the undertaking or completion of the Project and the financing thereof, and the Local Borrower has complied with all applicable

provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof; and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer, other than those already obtained or reasonably expected to be obtained, is required on the part of the Local Borrower as a condition to the authorization, execution and delivery of this Loan Agreement, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

Section 3.7 **Compliance with Law**. The Local Borrower:

(a) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject and the failure to comply with which would materially adversely affect the ability of the Local Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System; and

(b) has obtained, or will obtain as and when required, all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Local Borrower to undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System.

Article 4 Assignment

Section 4.1 **Assignment and Transfer by Authority**. The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 4.2 **Assignment by Local Borrower**. This Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (ii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; and (iii) the Authority shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Article 5 Defaults and Remedies

Section 5.1 **Events of Default**. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "*Event of Default*":

(a) failure by the Local Borrower to pay, or cause to be paid, when due any Loan Repayment;

(b) failure by the Local Borrower to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Local Borrower for borrowed money

(other than the Loan), after giving effect to the applicable grace period, the payments of which are secured by the Source of Repayment described in this Loan Agreement;

(c) failure by the Local Borrower to perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraphs (a) and (b) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Local Borrower by the Authority, unless the Authority agrees in writing to an extension of such time prior to its expiration, provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Authority may not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Local Borrower and diligently pursued until the Event of Default is corrected;

(d) the institution of any proceeding, with the acquiescence of the Local Borrower, for the purpose of effecting a composition between the Local Borrower and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from the Source of Repayment described in this Loan Agreement;

(e) a determination by the Authority that any material representation made by or on behalf of the Local Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement, is false or misleading in any material respect; and

(f) the filing of a petition by or against the Local Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Local Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Local Borrower becoming insolvent or bankrupt or making an assignment for the benefit of its creditors; or the appointment of a custodian (including, without limitation, a receiver, liquidator or trustee of the Local Borrower or any of its property including the System) by court order, or possession of the Local Borrower or its property or assets is taken if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.2 **Notice of Default.** The Local Borrower shall give the Authority prompt telephone notice of the occurrence of any Event of Default referred to in Section 5.1 paragraph (c) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default, at such time as any senior administrative or financial officer of the Local Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section shall be confirmed in writing by the end of the next Business Day.

Section 5.3 **Remedies on Default.**

(a) Whenever an Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the Authority shall have the right to take any action permitted or required pursuant to this Loan Agreement and to take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due on their scheduled payment dates or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Local Borrower hereunder, including, without limitation, appointment of a receiver of the System.

(b) Nothing in this Loan Agreement shall be construed to affect the Attorney General taking action to enforce this Loan Agreement in accordance with the Authority Act.

Section 5.4 **Attorney's Fees and Other Expenses.** In the event of a default hereunder by the Local Borrower, the Local Borrower shall on demand and to the extent not prohibited by applicable law pay to the Authority the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observance of any other duties, covenants, obligations or agreements of the Local Borrower to the extent permitted by law.

Section 5.5 **Application of Moneys.** The parties acknowledge that: (a) all amounts coming due hereunder as Loan Repayments shall be treated as principal and combined interest and fees with respect to the Loan which amounts are secured by a pledge of the Source of Repayment in accordance with Exhibit D of this Loan Agreement; and (b) amounts coming due under Section 5.4 hereof shall be secured by the Source of Repayment on a basis subordinate to the Loan Repayments, but on a parity with comparable expenses relating to such Outstanding Parity Obligations and Additional Parity Obligations.

However, any moneys collected by the Authority pursuant to Section 5.3 in the exercise of remedies with respect to amounts due or to become due hereunder shall be applied: (a) first, to pay any attorney's fees or other fees and expenses owed by the Local Borrower pursuant to Section 5.4 hereof, (b) second, to pay delinquent combined interest fees and late charges on the Loan; (c) third, to pay combined interest and fees then due and payable on the Loan; (d) fourth, to pay delinquent principal on the Loan in order of scheduled maturity; (e) fifth, to pay principal then due and payable on the Loan; and (f) sixth, to pay any other amounts due and payable pursuant to this Loan Agreement.

Section 5.6 **No Remedy Exclusive; Waiver; Notice.** No remedy conferred upon or reserved to the Authority hereunder is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it as described in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

Section 5.7 **Retention of Authority's Rights.** Notwithstanding any assignment or transfer of this Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Local Borrower at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Local Borrower to the Authority.

Section 5.8 **Default by the Authority.** In the event of any default by the Authority in any duty, covenant, agreement or obligation described in this Agreement, the Local Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority described herein as may be necessary or appropriate. The Authority shall on demand pay to the Local Borrower the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observance.

Article 6 Provisions Applicable to Loans Financed by or Pledged to Secure Authority Bonds

Section 6.1 **General.** The Local Borrower acknowledges that the Authority is entering into this Loan Agreement and agreeing to make the Loan at this time for the benefit of the Local Borrower, and that the Authority may finance the Loan, along with other loans to other local borrowers, through the issuance of Authority Bonds and may pledge the Loan to secure Authority Bonds. If and for so long as the Authority's source of funds to make disbursements on, or to carry, the Loan represented by this Loan Agreement is, or becomes, the proceeds of Authority Bonds, or this Loan Agreement is assigned by the Authority as security for payment of amounts due or to become due on Authority Bonds, the Local Borrower agrees to cooperate with the Authority with respect to the issuance of Authority Bonds by furnishing and certifying information concerning the Local Borrower, the Project, the System and the Source of Repayment, and by agreeing to reasonable modifications and additions to this Loan Agreement necessary or convenient for the Authority Bond transaction. Without limiting the generality of the foregoing, the Local Borrower agrees that if the Authority at any time determines, in its discretion, that it is necessary in connection with the issuance of Authority Bonds or the maintenance of the Authority's bond program, then the provisions set forth in this Article shall be in effect.

Section 6.2 **Tax Covenants.**

(a) **General.** The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its Authority Bonds from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an AMT Obligation, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) **Modification Based on Bond Counsel Opinion.** Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) **Bond Counsel Opinion.** For purposes of this Article, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

Section 6.3 **Third Party Beneficiaries.** The Trustee, the owners from time to time of the Authority Bonds, any Credit Enhancer from time to time of the Authority Bonds and any underwriter of the Authority Bonds are each expressly acknowledged to be third party beneficiaries of this Loan Agreement and each representation, agreement, duty, obligation and provision of this Loan Agreement.

Section 6.4 **Additional Documents Relating to Authority Bonds.** The Local Borrower will furnish to the Authority and certify to such information and execute and deliver and cause to be executed and delivered such documents as the Authority, the underwriter or other parties to any Authority Bond transaction may reasonably require, including, without limitation:

(a) a certificate of an Authorized Officer of the Local Borrower to the effect that the information contained in the Final Official Statement (defined in Section 6.5, paragraph (a)) for the Authority Bonds concerning the Local Borrower is correct in all material respects and is an accurate summary of the information which it purports to summarize, and that nothing has come to the Authorized Officer's attention that would lead the Authorized Officer to believe that the information in the Final Official Statement relating to the Local Borrower contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(b) subject to the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 (the "*Disclosure Rule*"), a continuing disclosure undertaking of the Local Borrower meeting the requirements of the Disclosure Rule, and a statement of the Local Borrower as to whether it has failed to provide any information and notices required by the provisions of previous continuing disclosure undertakings, if any, of the Local Borrower under the Disclosure Rule, and if it has not, describing the circumstances and status of such failure; and

(c) an appropriate certificate executed by Authorized Officer of the Local Borrower concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate; and

(d) such other certificates, documents and information, and supplemental opinions of Local Borrower's counsel, as the Authority, the underwriters of the Authority Bonds or other parties to the Authority Bonds transaction may reasonably require and as are necessary to confirm the continued truth and accuracy of information supplied by or on behalf of the Local Borrower.

Section 6.5 **Disclosure Regarding Authority Bonds.**

(a) The information, if any, relating to the Local Borrower (including without limitation the financial and statistical data contained therein) which has been furnished by the Local Borrower to be included in, and which is included in, a Preliminary Official Statement of the Authority (the "*Preliminary Official Statement*"), or a final Official Statement (the "*Final Official Statement*") of the Authority concerning any Authority Bonds, as of the respective dates of each such document and at all times subsequent thereto up to and including the Bond Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority and each other local borrower, if any, included in the Final Official Statement, and each of such parties' respective agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees incurred as a result of any omission or misstatement of a material fact in the Local Borrower's information in the Final Official Statement, as it may have been supplemented or amended by the Local Borrower.

(b) The Local Borrower agrees that from the date of the Final Official Statement and for a period until not later than 25 days after the date of the Bond Closing if and so long as the offering of the Authority Bonds continues (i) the Local Borrower will furnish such information with respect to itself as the Authority (for itself or at the request of the underwriters of the Authority Bonds) may from time to time reasonably request and (ii) if any event shall occur as a result of which it is necessary, in the opinion of Bond Counsel to the Authority, or counsel for the underwriters of the Authority Bonds, to amend or supplement the information in the Final Official Statement relating to the Local Borrower in order to make such information not misleading in light of the circumstances then existing, the Local Borrower will forthwith prepare, and furnish to the Authority and the underwriters such information relating to the Local Borrower as may be necessary to permit the preparation of an amendment of or supplement to the Final Official Statement (in form and substance satisfactory to the Bond Counsel to the Authority and counsel for the

underwriters) which will amend or supplement the Final Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances then existing, not misleading.

(c) The Local Borrower agrees that if prior to the 25th day following the end of the underwriting period of the Authority Bonds, as defined for purposes of the Disclosure Rule, any event shall occur which causes the representations contained in Section 6.4, paragraph (a) to be false in any material respect, the Local Borrower shall promptly notify the Authority of such development, and if in the opinion of the Authority and the underwriters of the Authority Bonds such development requires the preparation of a supplement or an amendment to the Preliminary Official Statement or the Final Official Statement, the Local Borrower agrees to cooperate with the Authority and the underwriters for the Authority Bonds in preparing any such supplement or amendment in a form acceptable to such parties and to pay all reasonable expenses incurred by such parties in connection with the preparation thereof.

Section 6.6 **Assignment and Transfer by Authority to Trustee.**

(a) The Local Borrower expressly acknowledges that, other than the right of the Authority to be indemnified by the Local Borrower, all right, title and interest of the Authority in, to and under this Loan Agreement will be assigned to the Trustee as security for the Authority Bonds, as applicable, as provided in the Authority's Master Trust Indenture, and that if any Event of Default shall occur the Trustee, pursuant to the Authority's Master Trust Indenture, shall be entitled to act hereunder in the place and stead of the Authority. The Local Borrower hereby acknowledges the requirements of the Authority's Master Trust Indenture applicable to the Authority Bonds and consents to such assignment and appointment. The Authority shall retain the right to compel or otherwise enforce observance and performance by the Local Borrower of its duties, covenants, obligations and to be indemnified by the Local Borrower; provided, however, that in no event shall the Authority or the Trustee have the right to accelerate the payments under this Loan Agreement.

(b) The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with any refunding of the Authority Bonds or otherwise in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 6.7 **Conditions to Assignment by Local Borrower.** Notwithstanding Section 4.2, this Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the Authority, the Trustee and the Credit Enhancer, if any, of the Authority Bonds shall have approved said assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Internal Revenue Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; (iv) the Authority and the Trustee shall have received an opinion of bond counsel to the effect that such assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of Federal income taxation under Section 103(a) of the Code or make the Authority Bonds or the Loan AMT Obligations; and (v) the Authority and the Trustee shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of the Master Trust Indenture or any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Section 6.8 **Sale or Other Disposition of Project or System.** The Local Borrower agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System unless (i) the transferee assumes the Local Borrower's obligations under this Loan Agreement in accordance with Section 6.6, (ii) the Authority shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants,

obligations and agreements under the Bond Documents, and will not adversely affect the eligibility of interest on Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation or cause such Authority Bonds to be AMT Obligations, and (iii) the Credit Enhancer, if any, of the Authority Bonds shall have given its prior written consent to such disposition.

Section 6.9 **Deficiencies Under Bond Documents Caused by Failure to Make Loan Repayment.** The Local Borrower acknowledges that payment of the Authority Bonds by the Authority, including payment from moneys drawn by the Trustee from the Bond Reserves or the CWRP Financial Assistance Account and DWRP Financial Assistance Accounts established under the Bond Documents, does not constitute payment of the amounts due under this Loan Agreement. If at any time the amounts on deposit in the Bond Reserves or the CWRP Financial Assistance Account and DWRP Financial Assistance Accounts shall be less than the amounts required by the Bond Documents as the result of any transfer of moneys from the Bond Reserves or the CWRP Financial Assistance Account and DWRP Financial Assistance Accounts which in turn is the result of a failure by the Local Borrower to make any Loan Repayments required hereunder, the Local Borrower agrees to (i) replenish such moneys so transferred, and (ii) replenish any deficiency arising from losses incurred in making such transfer as the result of the liquidation by the Authority of investment securities acquired as an investment of moneys in the Bond Reserves or the CWRP Financial Assistance Account and DWRP Financial Assistance Accounts, by making payments to the Authority in equal monthly installments for the lesser of six (6) months or the remaining term of the Loan at a combined interest and fee rate to be determined by the Authority necessary to make up any loss caused by such deficiency, provided that the combined interest and fee rate payable on the Loan including such make-up combined interest and fees shall not exceed the maximum rate permitted by the Authorizing Proceedings which authorized this Loan Agreement.

Section 6.10 **Indemnification.** To the extent permitted by law, the Local Borrower shall indemnify, save and hold harmless the Authority against any and all claims, damages, liability and court awards including costs, expenses and attorney fees to the extent incurred as a result of any gross negligence or willful misconduct by the Local Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement.

Section 6.11 **Compliance with Master Trust Indenture.** The Local Borrower covenants and agrees to take such action as it may lawfully take and as the Authority shall reasonably request so as to enable the Authority to observe and comply with, all duties, covenants, obligations and agreements contained in the Master Trust Indenture insofar as such duties, covenants, obligations and agreements relate to the obligations of the Local Borrower under this Loan Agreement.

Section 6.12 **Provisions Relating to Default.**

(a) Any notice or information which the Local Borrower is to give to the Authority pursuant to the provisions of Article 5 shall also be given by the Local Borrower to the Trustee and to any Credit Enhancer at the same time.

(b) Notwithstanding the provisions of Section 5.3, paragraph (a) and Section 5.7, so long as a Credit Enhancer is not in default of its obligations with respect to its payment guarantee of the Authority Bonds and such guarantee is in effect, the Credit Enhancer shall have the right to direct the exercise of remedies provided for herein and the Trustee and the Authority shall not pursue any remedy except with the prior written consent of the Credit Enhancer.

(c) In the event of a default hereunder by the Local Borrower, the Local Borrower shall also pay the expenses of the Trustee and of any Credit Enhancer in the same manner as provided in Section 5.4 with respect to the expenses of the Authority.

Section 6.13 **Tax Compliance Certificate.** If the Authority Bonds are issued and sold on the basis that they are Tax-Exempt Obligations, an Authorized Officer of the Local Borrower shall deliver an appropriate certificate concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate.

Article 7 Miscellaneous

Section 7.1 **Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Authority and the Local Borrower and their respective successors and assigns.

Section 7.2 **Severability.** In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 7.3 **Amendments, Supplements and Modifications.** This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and the Local Borrower.

Section 7.4 **Execution in Counterparts.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.5 **Captions.** The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 7.6 **Further Assurances.** The Local Borrower shall, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Loan Agreement.

Section 7.7 **State of Arizona Contract Provisions.**

1. **Books and Records.** As required by the provisions of Arizona Revised Statutes Section 35-214, the Local Borrower agrees that all books, accounts, reports, files and other records relating to this Loan Agreement shall be retained and shall be subject at all reasonable times to inspection and audits by the Authority for five years after completion of this Loan Agreement, and that upon request by the Authority such records shall be produced at any of the Authority offices designated herein as the place at which notices to the Authority are to be given.
2. **Prohibition Against Discrimination.** In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
3. **Governing Law and Forum.** This Loan Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Arizona, except as such laws may be preempted by any federal rules or regulations. The parties hereto expressly acknowledge and agree and all Local Borrowers by their acceptance thereof shall be deemed to have acknowledged and agreed that any judicial action to interpret or enforce the terms of this Loan Agreement against the Authority shall be brought and maintained in the Superior Court of the State of Arizona in and for Maricopa County or in the United States District Court in and for the District of Arizona.
4. **Arbitration.** In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.
5. **Notice of Arizona Revised Statutes Section 38-511 – Cancellation.** Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of

said statute are incorporated herein to the extent of their applicability to this Loan Agreement under the law of the State of Arizona.

6. Additional Warranties and Certifications from the Local Borrower. In compliance with Section 23-214(B) of the Arizona Revised Statutes, the Local Borrower warrants to the Authority that either (a) it is not an “employer” (within the meaning of Arizona Revised Statutes Section 23-214(B)) or (b) it is registered with and is participating in the employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or any of its successor programs (the “E-Verify Program”) and that the proof submitted to the Authority of that registration and participation is true and correct. The Local Borrower agrees that, until the Loan is fully paid, at all times during which it is an “employer” (within the meaning of Arizona Revised Statutes Section 23-214(B)) it will be registered with and will participate in the E-Verify Program. The breach by the Local Borrower of the foregoing shall be deemed a material breach by the Local Borrower of this Loan Agreement and may result in penalties up to and including the termination of this Loan Agreement. If the Authority determines that the Local Borrower is not so registered and participating when required, the Authority will notify the Local Borrower by certified mail of the determination of noncompliance and the Local Borrower’s right to appeal the determination. On a final determination of noncompliance, the Local Borrower shall repay all monies received as an economic development incentive (within the meaning of Arizona Revised Statutes Section 23-214(B)) to the Authority within thirty days of the final determination.

Article 8 Definitions

Section 8.1 **Definitions.** The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meaning:

“*AMT Obligation*” means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

“*Annual Loan Review Form*” means the loan compliance questionnaire circulated by the Authority to all borrowers as part of the Authority’s annual loan portfolio review.

“*Authority*” means the Water Infrastructure Finance Authority of Arizona, a body corporate and politic of the State of Arizona duly created and validly existing under and by virtue of the Authority Act.

“*Authority Act*” means Title 49, Chapter 8 (Section 49-1201 et seq.) of the Arizona Revised Statutes (“A.R.S.”).

“*Authority Bonds*” means any bonds of the Authority issued to finance the State’s revolving fund established pursuant to the Water Pollution Control Act, as amended, and the Safe Drinking Water Act, as amended.

“*Authorized Officer*” means, (i) with respect to the Local Borrower, the person whose name is set forth in this Loan Agreement or such other person or persons authorized by the Local Borrower to act as an authorized officer of the Local Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement whose name is furnished in writing to the Authority and the Trustee; and (ii) with respect to the Authority, the Chairman, Vice Chairman, Executive Director, or any other person or persons designated by the Board to act on behalf of the Authority with respect to this Loan Agreement; the designation of such person or persons shall be evidenced by a written certificate containing a specimen signature of such person or persons and signed on behalf of the Authority by its Chairman or Vice Chairman.

“*Bond Closing*” means the date of initial delivery of and payment for the Authority Bonds.

“*Bond Documents*” means and includes the Master Trust Indenture, any supplemental indenture and any comparable or related document pursuant to which the Authority Bonds are issued, and all further amendments and supplements thereto adopted in accordance with the provisions thereof.

“*Bond Reserves*” means reserves established by the Bond Documents for the Authority Bonds to secure timely payment of amounts due on the Authority Bonds even if one or more local borrowers do not make timely payments on their loans.

“*Business Day*” means any day other than a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the designated office of the Authority (being Phoenix, Arizona) is located, are closed.

“*Capital Grant Facility*” means the contractual arrangement established with the Authority by the United States of America Environmental Protection Agency to make capitalization grant payments pursuant to Title VI of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 125 et seq.) and the Federal Safe Drinking Water Act, as amended (particularly 42 U.S.C. § 300j-12 et seq.).

“*Clean Water Act*” means the Federal Water Pollution Control Act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the Water Quality Act of 1987 (P.L. 100-4; 101 Stat. 7) and the Water Resources Reform and Development Act of 2014 (P.L. 113-21, 128 Stat. 1193).

“*Clean Water Revolving Fund*” means the fund established by A.R.S. § 49-1221.

“*Code*” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“*Combined Interest and Fee Rate*” means periodic interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

“*Construction Period*” means the period from the date of the Loan Closing until the date of the final disbursement of proceeds of the Loan pursuant to this Loan Agreement, but in no event later than the third anniversary of the Loan Closing.

“*Cost*” means those costs that are eligible to be funded from draws under the Capital Grant Facility and are reasonable, necessary and allocable to the Project and are permitted by generally accepted government auditing standards to be costs of the Project.

“*Credit Enhancer*” means the entity so designated in the Bond Documents, if any, or any successor thereto, that from time to time has issued and outstanding a municipal bond insurance policy or similar payment guarantee relating to the Authority Bonds.

“*CWRF Financial Assistance Account*” means the account so designated in the Master Trust Indenture to which loans funded by the Clean Water Revolving Fund shall be credited.

“*Debt Management Fee*” means the fee component of the combined interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

“*Department*” means the Department of Environmental Quality of the State of Arizona.

“*Drinking Water Facility*” has the meaning given that term in the Authority Act, currently: a community water system or a non-profit noncommunity water system as defined in the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660l; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in the State. The term does not include water systems owned by federal agencies.

“*Drinking Water Revolving Fund*” means the fund established by A.R.S. § 49-1241.

“*DWRF Financial Assistance Account*” means the account so designated in the Master Trust Indenture to which loans funded by the Drinking Water Revolving Fund shall be credited.

“*Eligible Project Costs*” means, whether incurred before or after the date of this Loan Agreement, such portion of the Costs as is disbursed by the Authority for the benefit of the Local Borrower. The Local Borrower and the Authority acknowledge that the actual Eligible Project Costs for the Project have not been determined as of the effective date of this Loan Agreement. The final Eligible Project Costs shall be established after all disbursements have been made.

“*Event of Default*” means any occurrence or event specified in Section 5.1 hereof.

“*Indian Tribe*” has the meaning given that term by the Authority Act, currently: any Indian tribe, band, group or community that is recognized by the United States Secretary of the Interior and that exercises governmental authority within the limits of any Indian reservation under the Jurisdiction of the United States government notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

“*Loan*” means (a) during the Construction Period, the commitment to lend to the Local Borrower the Estimated Eligible Project Costs set forth in this Loan Agreement (as it may be amended or revised from time to time), and (b) thereafter, the amount of money equal to the Eligible Project Costs which is actually loaned to the Local Borrower pursuant to this Loan Agreement.

“*Loan Agreement*” or “*Agreement*” means this Loan Agreement, including the Exhibits and these Standard Terms and Conditions attached to this Loan Agreement, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“*Loan Closing*” means the date of execution and delivery of this Loan Agreement.

“*Loan Repayment Date*” means the payment dates commencing and ending on the dates set forth in this Loan Agreement.

“*Loan Repayments*” means the payments payable by the Local Borrower pursuant to this Loan Agreement.

“*Local Borrower*” means the Political Subdivision or Indian Tribe that is a party to and is described in the first paragraph of this Loan Agreement.

“*Master Trust Indenture*” means and includes the Master Trust Indenture dated as of August 1, 1999, as supplemented, and any comparable or related document, pursuant to which the Authority issues Authority Bonds.

“*Political Subdivision*” has the meaning given that term by the Authority Act, currently: a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities.

“*Project*” is the project described in Section 2.1 of the Loan Agreement, all or a portion of the Cost of which is financed from the proceeds of the Loan.

“*Repayment Period*” means the period over which the principal amount of the Loan will be repaid which period begins and ends on the dates set forth in this Loan Agreement.

“*Repayment Principal Amount*” means the amount the Authority agrees to loan to the Local Borrower pursuant to this Loan Agreement or such lesser amount of actual Eligible Project Costs as represents the aggregate amount of the Loan actually made pursuant to this Loan Agreement.

“*Reserve Fund Surety*” means a surety bond, insurance policy, letter of credit or similar arrangement representing the irrevocable obligation of the issuer thereof to pay to or at the direction of the Local Borrower an amount up to the Reserve Requirement as set forth in Exhibit A.

“*Safe Drinking Water Act*” means the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660; P.L. 96-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

“*Source of Repayment*” means the “source of repayment” set forth in this Loan Agreement as defined in Exhibit D.

“*State*” means the State of Arizona.

“*System*” means the “System” as defined in Section 2.2 of the Loan Agreement.

“*Tax-Exempt Obligation*” means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150 of the Code, and includes any obligation or any investment treated as a “tax-exempt bond” for the applicable purpose of Section 148 of the Code

“*Trustee*” means the Trustee appointed by the Authority pursuant to the Bond Documents and its successor or successors and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Documents.

Terms not otherwise defined herein shall have the meanings ascribed to them in Exhibit D to the Loan Agreement.

Section 8.2 **Rules of Interpretation**. For all purposes of this Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

- (a) Words of one gender include the corresponding words of other genders; words of neuter include both genders; and words in the singular include words in the plural and vice versa.
- (b) Words indicating persons, parties, or entities (and the like) include firms, associations, partnerships (including limited partnerships), limited liability companies (and the like), corporations, trusts and other legal entities, including public and governmental bodies, as well as natural persons.
- (c) References to a statute refer to the statute, as amended, and any successor statute, and to all regulations promulgated under or implementing the statute or successor statute, as in effect at the relevant time.
- (d) References to a governmental or quasi-governmental entity or representatives thereof also refer to an entity that succeeds to the functions of the governmental or quasi-governmental entity and representatives thereof.
- (e) Headings preceding sections of text and any table of contents are solely for convenience of reference and are not part of this Loan Agreement and are not to affect its meaning, interpretation or effect.
- (f) Actions permitted under this Loan Agreement may be taken at any time and from time to time in the actor’s sole discretion.
- (g) The word “including” means “including, but not limited to” and the word “include” means “include, among others.”
- (h) The terms “hereby,” “hereof,” “herein,” and “hereunder” (and the like) refer to this Loan Agreement.
- (i) Indications of time of day mean local time in Phoenix, Arizona.
- (j) This Loan Agreement shall be governed by and construed in accordance with the applicable law of the State of Arizona, except for its conflict of law rules and except as preempted by federal.

Article 9 List of Federal Laws and Authorities

By Section 5.4 and Section 5.5 of Exhibit B to the Loan Agreement, the Local Borrower agrees that the Project will comply with applicable provisions of the following federal laws and authorities:

Environmental:

1. Archaeological and Historical Preservation Act of 1974, Pub. L. 93-291; 16 U.S.C. § 469a-1.
2. Clean Air Act, Pub. L. 95-95, as amended; 42 U.S.C. § 7401 et. seq.
3. Clean Water Act, Titles II, IV, and V, Pub. L. 92-500, as amended.
4. Coastal Barrier Resources Act, Pub. L. 97-348; 16 U.S.C. § 3501 et. seq.
5. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 U.S.C. § 1451 et. seq.
6. Endangered Species Act, Pub. L. 93-205, as amended; 16 U.S.C. § 1531 et seq.
7. Environmental Justice, Executive Order 12898.
8. Farmland Protection Policy Act, Pub. L. 97-98; 7 U.S.C. § 4201 et seq.
9. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.
10. Floodplain Management, Executive Order 11988, as amended by Executive Order 12148.
11. Magnuson-Stevens Fishery Conservation and Management Act, Pub L. 94-265, as amended; 16 U.S.C. § 1801 et. seq.
12. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended; 16 U.S.C. § 470 et. seq.
13. Protection and Enhancement of the Cultural Environment, Executive Order 11593.
14. Protection of Wetlands, Executive Order 11990, as amended by Executive Order 12608; Pub. L. 99-645, as codified at 16 U.S.C. § 3901 et. seq.
15. Safe Drinking Water Act, section 1424(e), Pub. L. 92-523, as amended; 42 U.S.C. § 300f et. seq.
16. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended; 16 U.S.C. § 1271 et. seq.
17. Migratory Bird Treaty Act of 1918, 16 U.S.C. § et. seq.

Social Legislation:

1. Age Discrimination Act, Pub. L. 94-135; 42 U.S.C. § 6102.
2. Civil Rights Act of 1964, Pub. L. 88-352, Title VI; 42 U.S.C. § 2000d.
3. Equal Employment Opportunity, Executive Order 11246, as amended.
4. Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

- a. Promoting the use of Small, Minority, and Women-owned Businesses, Executive Orders 11625, 12138 and 12432.
 - b. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.
 - c. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389; 42 U.S.C. § 4370d.
 - d. Title X Clean Air Act, Pub. L. 101-549; 42 U.S.C. § 7601 note.
5. Rehabilitation Act of 1973, Pub. L. 93-112; 29 U.S.C. § 794 (including Executive Order 11914 and 11250).
 6. Section 13 of the Federal Water Pollution Control Act, Pub. L. 92-500; 33 U.S.C. § 1251.
 7. The Drug Free Workplace Act Of 1988, Pub. L. 100-690.

Economic and Miscellaneous Authority:

1. Anti-Lobbying Provision (40 CFR Part 34) and New Restrictions on Lobbying, Section 319 of Pub. L. 101-121.
2. Debarment and Suspension, Executive Order 12549.
3. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended; 42 U.S.C. § 3331 et. seq.
4. Preservation of Open Competition and Government Neutrality, Executive Order 13502.
5. Prohibitions relating to violators of the Clean Air Act, Section 306 of the Clean Air Act, 42 U.S.C. § 7505; Section 508 of the Clean Water Act, 33 U.S.C. § 1368; Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.
6. Uniform Relocation and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as amended; 42 U.S.C. §§ 4601-4655.

RESOLUTION NO. 2015-103

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA FROM ITS DRINKING WATER REVOLVING FUND PROGRAM; DELEGATING THE DETERMINATION OF CERTAIN MATTERS RELATING THERETO TO THE CHIEF FINANCIAL OFFICER OF THE CITY; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY SUCH LOAN AGREEMENT AND THIS RESOLUTION AND DECLARING AN EMERGENCY

WHEREAS, at a special election held in and for the City of Peoria, Arizona (the "City"), on September 12, 2000 (the "Election"), there was submitted to the qualified electors thereof the following question:

QUESTION NO. 1

WATER TREATMENT AND WATER SYSTEM BONDS

Shall the City of Peoria, Arizona be authorized to issue and sell bonds of the City in the principal amount of \$99,000,000 to provide funds to provide for expansion and to make improvements to the water production, treatment, distribution, transmission and storage system of the City, including treatment plants, pumping and storage facilities, transmission mains and facilities; constructing and equipping buildings and facilities and any property of any kind, including joint facilities to be utilized with others, whether inside or outside the City limits; acquiring water rights and/or land on which such rights are attached by purchase, lease, condemnation or any other method; acquiring land and interests in land or facilities or rights of way by purchase, condemnation or any other method, and pay all legal, financial, engineering, architectural and all other necessary

costs in connection therewith; and at the option of the Council to enter into agreements with the Water Infrastructure Financing Authority of the State of Arizona to finance improvements authorized by this question, such bonds to be issued at the option of the Council, as general obligation bonds or as tax secured revenue bonds payable from utility revenues and if such revenues prove insufficient, from the levy of an ad valorem tax against the assessed valuation of all taxable property within the City or as utility revenue bonds payable from the revenues of the utility system of the City, the bonds to be issued in one or more series, maturing not more than 30 years following the date of the issuance of each series and bearing interest at a rate or rates not higher than 12% per annum?

; and WHEREAS, a majority of the qualified electors of the City, voting at the Election voted "For the Bonds," in answer to such Question submitted; and

WHEREAS, the returns of the Election were duly canvassed by the Mayor and Council of the City and a certificate disclosing the purpose of the Election, the total number of votes cast thereat, the total number of votes for and against the issuance of bonds, and stating that the creation of the indebtedness by the issuance of bonds in accordance with the questions was ordered and has been filed and recorded in the office of the County Recorder of Maricopa County, Arizona; and

WHEREAS, the City has heretofore applied to the Water Infrastructure Finance of Arizona (the "Authority"), for a loan (the "Loan") from the Authority's Drinking Water Revolving Fund Program to provide funds for the acquisition and integration of a public water system located within the boundaries of the City known as the "New River Utility Company" and the payment of the City's proportionate share of expenses of administering the Authority's Drinking Water Revolving Fund Program and any bonds issued by the Authority with respect thereto (collectively, the "Project"); and

WHEREAS, the terms and conditions under which the Loan will be made and the obligations of the City with respect to the Loan will be set forth in a loan agreement to be executed and delivered by the City and the Authority (the "Loan Agreement"); and

WHEREAS, the Loan and the loan repayments payable by the City pursuant to the Loan Agreement (the "Loan Repayments") will be secured by a pledge of the net revenues of the City's water and sewer systems (the "Source of Repayment"), which pledge of the net revenues of the System will be on a parity with the lien of the Outstanding Parity Obligations and the Additional Parity Obligations (as such terms are defined in the Loan Agreement); and

WHEREAS, the Mayor and Council of the City have determined that it will be beneficial to the citizens of the City to enter into and to perform the Loan Agreement, whereby the City will borrow not to exceed \$14,000,000 from the Authority; and

WHEREAS, the Loan shall be repaid on or before twenty-one (21) years from the date of the execution and delivery of the Loan Agreement and the Loan shall bear interest at a rate not to exceed five percent (5%) per annum; and

WHEREAS, there has been placed on file with the Clerk of the City and presented at the meeting at which this Resolution was adopted the proposed form of the Loan Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE Mayor and City Council of the City of Peoria, Arizona, that:

Section 1. The form, terms and provisions of the Loan Agreement, in the form of such document (including the exhibits thereto) presented at the meeting at which this Resolution was adopted are hereby approved, with such insertions, omissions and changes, not inconsistent with the City's application to the Authority or the requirements of the federal government or the Authority, as shall be approved by the Chief Financial Officer of the City, the execution of such document being conclusive evidence of such approval, and the Chief Financial Officer or Mayor or, in the absence thereof, Vice Mayor of the City and the Clerk of the City are hereby authorized and directed, for and on behalf of the City, to execute and attest and deliver, respectively, the Loan Agreement.

Section 2. For the payment of the principal of and interest on the Loan, the City shall pay the Loan Repayments provided for in the Loan Agreement. The City shall also pay all other amounts required to be paid by the City pursuant to the provisions of the Loan Agreement.

Section 3. The obligation of the City to pay the Loan Repayments provided for in the Loan Agreement as well as to make the other payments provided for in the Loan Agreement is limited to payment from the Source of Repayment which is pledged therefor pursuant to the Loan Agreement, and the obligations of the City pursuant to the Loan Agreement shall not constitute nor give rise to a general obligation of the City or any claim against its *ad valorem* property taxing powers, or constitute an indebtedness within the meaning of any statutory or constitutional debt limitation applicable to the City.

Section 4. The appropriate officials and officers of the City are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to and to consummate the transactions contemplated by the Loan Agreement and by this Resolution, including, without limitation, the execution and delivery of any closing and other documents reasonably required to be delivered in connection therewith.

Section 5. If any section, paragraph, subdivision, sentence, clause or phrase of this Resolution is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this Resolution. The Mayor and Council of the City hereby declare that it would have adopted this Resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the execution and delivery of the Loan Agreement pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Resolution may be held illegal, invalid or unenforceable. All resolutions or parts thereof, inconsistent herewith, are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any resolution or any part thereof.

Section 6. All actions of the officers and agents of the City including the Mayor and Council of the City which conform to the purposes and intent of this Resolution and which further the execution and delivery of the Loan Agreement as contemplated by this Resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this Resolution.

Section 7. All acts and conditions necessary to be performed by the City or to have been met precedent to and in the execution and delivery of the Loan Agreement in order to make it a legal, valid and binding obligation of the City will at the time of delivery of the Loan Agreement have been performed and have been met, in regular and due form as required by law, and no statutory, charter or constitutional limitation of indebtedness or taxation will have been exceeded in the execution and delivery of the Loan Agreement.

Section 8. All formal actions of the Mayor and Council of the City concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 9. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public health and welfare and for the further reason that the execution and delivery at the earliest possible date of the Loan Agreement is urgently needed to attempt to secure the lowest possible interest cost to the City; therefore, an emergency is hereby declared to exist and this Resolution is enacted as an emergency measure and shall be in full force and effect from and after the passage and adoption by the Mayor and Council of the City, as required by law, and this Resolution is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona and the Charter of the City.

Section 10. After the execution and delivery of the Loan Agreement and upon receipt of the Loan from the Authority, this Resolution shall be and remain irrevocable until the Loan and the Loan Agreement and the interest thereon shall have been fully paid, cancelled and discharged.

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 6th day of October 6, 2015.

Cathy Carlat, Mayor, City of Peoria, Arizona

ATTEST:

Rhonda Geriminsky, City Clerk,
City of Peoria, Arizona

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney,
City of Peoria, Arizona

CERTIFICATION OF CITY CLERK

I hereby certify that the above and foregoing Resolution No. 2015-103 duly passed and adopted by the Mayor and the Council of the City of Peoria, Arizona, at a regular meeting held on the 6th day of October, 2015, and that a quorum was present there and that the vote thereon was _____ ayes and _____ nays. _____ were no vote or absent..

Rhonda Geriminsky, City Clerk
City of Peoria, Arizona



City Council Calendar

Color Key:
City Council

< September	October 2015						November >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
				1	2	3	
4	5	6 Special City Council Meeting Regular City Council Meeting	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20 Special City Council Meeting & Study Session Regular City Council Meeting	21	22	23	24	
25	26	27	28	29	30	31	



City Council Calendar

Color Key:
City Council

< October	November 2015						December >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17 Special City Council Meeting & Study Session Regular City Council Meeting	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT

Agenda Item: RCM 23A

Date Prepared: September 3, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: John R. Sefton Jr., Community Services Director

THROUGH: Jeff Tyne, Deputy City Manager

SUBJECT: Keep it Safe: A Family Affair

Summary:

The Mayor, City Council and community are invited to attend the “Keep it Safe: A Family Affair” on Saturday, October 3 from 8-11am at the Dignity Health’s Medical Plaza, 7727 West Deer Valley Road, Suite 210, Peoria. The City of Peoria is promoting to the community safe and healthy lives by taking advantage of the free items and information provided at *Keep it Safe*. Dignity Health’s Peoria North Clinic provides a patient centered medical home with comprehensive, compassionate health care for the entire family—from infants to adolescents, adults to the elderly.

The event will offer free blood pressure checks, fire and water safety prevention, fire truck and smoke house tours, a self defense demonstration for kids, a bike rodeo, face painting, inflatable attractions, various vendor booths, and helmet fittings. Helmet giveaways will be offered while quantities last.

Entertainment this year will be provided in part by Bobby Freeman of the Arizona Diamondbacks, who will also be serving as the event MC.

Exhibit(s): Keep it Safe Flyer

Contact Name and Number: Bill Moss (623)773-7133

Keep it Safe a Family Affair

**Saturday
October 10, 2015
8 - 11 a.m.**

**Dignity Health Medical Group
7727 W. Deer Valley Rd., Suite 210
Peoria, AZ 85382**

Please join us for our **FREE** community event.

Activities Include:

- Bike Rodeo
- Fire & Water Safety Prevention
- Fire Truck Tour
- Child ID Kits
- Free Blood Pressure Checks
- Face Painting
- Inflatables
- Food*
- Vendor Booths
- Helmet Fitting & Giveaway*

**while quantities last*

All activities will be located outside in the parking lot. For questions about this event, please contact **623-773-7137** or visit www.peoriaaz.gov/specialevents

*Brought to you by the City of Peoria and
Dignity Health Medical Group Peoria North*



**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: RCM 23B

Date Prepared: September 24, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

THROUGH: Susan Daluddung, Deputy City Manager

FROM: Julie Ayers, Human Resources Director

SUBJECT: Special Mid-Decade Census Update

Purpose:

The City of Peoria is participating in a Special Mid-Decade Census. This staff report is to update the Mayor and Council on the status of the project.

Background/Summary:

The Peoria City Council voted on March 17, 2015 to participate in a mid-decade census. Peoria has experienced significant growth since the 2010 census and an updated count will allow the City to qualify for additional state shared sales tax revenues to provide essential services such as public safety, parks and street maintenance. In fact, each person counted in Peoria equals \$318 in annual revenue.

Census day was October 1, 2015 and census enumerators are going door-to-door during October and November. Special census counts are only taken in person at their residence; there are no mail-in forms or others methods of being counted. Seven basic questions will be asked of Peoria residents: name, relationship, race and Hispanic origin, gender, age, date of birth and whether the home is owned or rented. The information provided is confidential under Federal Law.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: RCM 23C

Date Prepared: September 22, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Scott Whyte, Economic Development Services Director

SUBJECT: The award of a term contract to Dekker/Perich/Sabatini for the purpose of providing consultant services for real estate development on an on-call, as-needed basis.

Summary:

Staff conducted a Request for Proposals (RFP) to hire a qualified consulting team to undertake a variety of real estate development services in support of the city creating build-to-suit commercial and industrial centers as part of implementing strategies identified in the 2010 Economic Development Implementation Strategy (EDIS). This initiative will have a strong emphasis on implementation and will build on the goals, objectives and principles established in the adopted plan. This award is for a team of expertise in the following fields:

- Architectural/Site Planning - DPS
- Civil Engineering Services – Land Development Team (LD-Team)
- Proforma Development and Review - Hines
- Project Management – DPS
- Tenant/Owner Representation and Brokerage services with a specialty in commercial and industrial markets - CBRE
- Technical studies such as market studies, parking studies, traffic studies, surveying, fiscal and economic studies – Land Development Team (LD-Team), Southwest Traffic Engineering, Survey Innovation Group, and other subconsultant, if necessary
- Property due diligence including Phase I environmental assessment, title reports, lease negotiations - CBRE

The services will be for pre-determined sites including two commercial and one industrial property, including the proposed Rovey Industrial Park, Parcel 3 at Park West (proposed Peoria Innovation Center), and the 14-acre city-owned property at the Loop 101/Peoria Avenue. The purpose of this land development services contract is to prepare key economic development potential sites into fully shovel ready condition, with build-to-suit capability for commercial and industrial products in the city.

On July 8, 2015, the City of Peoria received six (6) proposal responses from qualified consulting firms and established a selection committee from city staff to review and rank the proposals, as

well as assist with an interview of shortlisted candidates. The selection committee consisted of the following individuals:

- Scott Whyte, Economic Development Services Director, City of Peoria
- Dina Green, Economic Development Project Manager, City of Peoria
- Melissa Sigmund, Principal Planner, City of Peoria
- Angela Manuel, Real Property Coordinator, City of Peoria

The selection committee reviewed and shortlisted the proposals received. Firm interviews were held on August 5, 2015. The committee formally selected the Dekker/Perich/Sabatini team to help spearhead these very important services for the City of Peoria.

Dekker/Perich/Sabatini (DPS) has served clients since 1959 having built a solid reputation for exceptional customer service and design excellence. Today Dekker/Perich/Sabatini is an ENR Top 500 design firm. They operate as one multidisciplinary firm providing architecture, landscape architecture, planning, interior design, and structural engineering services.

Hines is a privately owned, international real estate firm that has provided the highest level of quality, service and value to its clients and investors for more than 58 years. With locations in 185 cities around the globe and investor relationships with many of the world's largest financial institutions, Hines has the breadth of experience, the network of expertise and the financial strength to assume complex and challenging investment, development and management projects. The Hines portfolio of projects underway, completed and acquired consists of more than 1,180 properties including skyscrapers, corporate headquarters, mixed-use centers, industrial parks, medical facilities, and master-planned resort and residential communities.

CBRE is the global leader in real estate services and investment. With approximately 31,000 employees in approximately 438 offices across 60 countries, they complete more successful transactions each year than any other firm in the world.

Land Development Team (LD-Team) supplies boutique services for clients and utilizes more than 110 years of combined land development services. LD-Team's principals supply hands-on management for each of their projects, ensuring they're managed by a licensed professional with more than 25 years in the industry.

Fiscal Analysis:

Funding previously identified in the amount of \$300,000, for the Land Development Consultant Services contract will be made from the Economic Development Services Other Professional Services Account 1000-0352-520099.

Contact: Scott Whyte, Economic Development Services Director, x7738

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: RCM 23D

Date Prepared: September 22, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager

FROM: Scott Whyte, Economic Development Services Director

SUBJECT: The award of a professional services contract to Kimley-Horn

Summary:

Staff conducted a Request for Proposals (RFP) to seek qualified firms for the development of a design program needed to advance a unique identity, sense of place, and public improvements in the Auto District along Bell Road, west of Loop 101 (Project Area). The deliverable will include conceptual designs for streetscape improvements, signage, options for a unique identity for the Project Area, and preliminary cost estimates for the public improvements along Bell Road. The goal of the design program is to develop an identity for the district, with themed public improvements and signage to create a sense of place, as well as determine a complete package of streetscape enhancements to promote and improve the viability of the district.

Project Area:

The Project Area is located along Bell Road, west of Loop 101, which has been the premier auto-mall destination in the west valley for 20 years. The Loop 101 provides visibility and access to this car buying destination. The nearby P83 District is currently under construction to provide a new identity and experience to this crucial part of the city. The Project Area is near several community and area icons including:

- The Peoria Sports Complex
- P83 – with restaurants and entertainment venues on 83rd Avenue.
- Shopping opportunities at big-box tenants and smaller-independent retail stores
- Area hotels

To address the needs of the Project Area, the scope of this project focuses on four (4) areas of emphasis. They include identity development, a comprehensive sign package, community involvement, and a streetscape improvement implementation plan. It is anticipated that the design team will create an approach that incorporates each of the five elements.

On Aug 6, 2015, the City of Peoria received five (5) proposals from qualified consulting firms and established an Auto District Branding and Identity Selection Committee comprised of city staff and community members to review and rank the proposals. The Selection Committee consisted of the following individuals:

- Kirsten Hall, Economic Development Services Department, City of Peoria

- Adina Lund, Engineering Department, City of Peoria
- Janet Ramsay, Public Works Department, City of Peoria
- Lorie Dever, Planning Department, City of Peoria
- Jeff Berggren, Vice President of Enrollment Management & Marketing, Huntington University
- Dennis Lunde, Owner, Lunde Volkswagen

The Selection Committee reviewed and shortlisted the proposals received. The Committee formally selected the Kimley-Horn team to help spearhead these very important services for the City of Peoria.

Kimley-Horn has been partnering with the City of Peoria for more than 20 years and their team has managed landscape and streetscape projects throughout the Valley, in addition to a specialized practice in automotive developments. The Mullin 360 group, a sub-consultant to Kimley-Horn, offers strategic development and branding expertise through 28 years in the automotive retail and real estate industry on a national basis. They have designed customer-centric automotive environments from California to New York. For each development, the Mullin 360 group crafted a brand name and design theme to serve a cluster of 16 to 24 dealerships, similar to Peoria's Auto District.

Fiscal Analysis:

Payment, not to exceed \$50,000, for the Phase I streetscape conceptual design, signage, and identity creation services for the Auto District on Bell Rd contract will be made from the Economic Development Services Other Professional Services Account 1000-0352-520099 for \$50,000.

Contact: Scott Whyte, Economic Development Services Director, x7738

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: RCM 23E

Date Prepared: September 28, 2015

Council Meeting Date: October 6, 2015

TO: Carl Swenson, City Manager
THROUGH: Susan Daluddung, Deputy City Manager
FROM: Julie Ayers, Human Resources Director
SUBJECT: Men's Health Campaign

Purpose:

The City of Peoria Wellness Committee is pleased to announce the upcoming Men's Health Campaign.

Background/Summary:

Throughout the year the Wellness Committee promotes activities and campaigns to increase awareness and prevention for a variety of health related topics.

During the months of October and November, the committee is rolling out the first annual Men's Health Month. The Man Up campaign will focus on educating employees on a variety of men's health related issues.

- October 13: Father-Daughter Act: A Story of Prostate Cancer Survival
- October 22: Information Session, Optimal Health for Men
- October 28: Information Session, Men's Health for Women
- November 3: Prostate-On-Site Project "POP" Mobile Screening
- November 5: Men's Stretching Tips
- November 30: Wear Blue Day! Support Awareness of Men's Health

Between now and the end of the calendar year the Wellness Committee is also sponsoring a on-site flu and pneumonia vaccinations, a "Sustain, Don't Gain" challenge and the "Great American Smoke Out: Your Quit Day" event.

Staff's Recommendation:

n/a

Fiscal Analysis:

n/a

Exhibit(s):

n/a

Contact Name and Number: Julie Ayers, Human Resources Director, 623-773-7580