



Arizona Community Action Association

CONTRACT NO. SRPWX05012011

Agreement between Arizona Community Action Association and Gila County Community Action Program, a Department of the Gila County Health and Community Services.

This Agreement for Low Income Weatherization Program Implementation (the "Agreement") is entered into by and between the Arizona Community Action Association, (ACAA) a 501(c)(3) non-profit social and human service association and between **Gila County Community Action Program, a Department of the Gila County Health and Community Services** ("Contractor"). Contractor and ACAA are individually referred to herein as "Party" and collectively referred to herein as "Parties".

RECITALS

The parties hereto desire to establish terms and conditions for the utilization of funds, to be contributed by Salt River Project (SRP) and managed by ACAA for a Low Income Weatherization Program (hereinafter referred to as the "Program"), in an amount up to **\$20,705.71**. Funds are to be used for the weatherization of qualified residential housing units.

In consideration of the recitals set forth above, the respective agreements of the Parties herein set forth, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

1. TERM/TERMINATION.

This Agreement is effective on **May 1, 2011** and terminates on **April 30, 2012**. Notwithstanding the foregoing, either Party may terminate this Agreement upon thirty (30) days prior written notice to the other Party.

2. SCOPE OF SERVICES.

Contractor will provide the following services (collectively, the “Services”):

- A. Contractor will provide repairs, reconditioning, replacement or restoration of deficiencies in a Client’s Qualified Home in order to make such homes energy efficient (collectively, the “Weatherization Services”).

1. For purposes of this Agreement, an individual is a “Client” if he or she meets the following requirements:

- a) the individual resides in a Qualified Home;
- b) the Qualified Home is served by SRP; and
- c) the individual has a maximum gross household income of 200% of the Federal poverty guideline as defined by the Arizona Department of Economic Security (DES), as adjusted by DES on a yearly basis every July 1st. (Income determination guidelines will be based on the countable income definition in the Contractors Weatherization Assistance Program guidelines.)
- d.) Contractor will obtain verification of ownership of housing, appliance and/or system. The following documents will be acceptable forms of verification:
 - i.) Homeowner: Deed or property tax statement; and
 - ii.) Renter: Receipt of purchase for the specific appliance or notarized affidavit signed by the property owner confirming that the renter is owner of the specific appliance (with serial number noted) AND proof that the property owner is the-owner of the-rental-property (deed and/or property tax statement).
 - iii.) The Contractor will obtain the Client’s prior written consent and approval for SRP to provide the Client’s utility bill history information, including the historic usage of energy by kilowatt hours or therms, to the Contractor

2. For purposes of this Agreement, a “Qualified Home” may be any of the following:

- a) an owner-occupied single family dwelling unit, which may be detached or attached to other owner-occupied dwelling units (e.g., duplex, triplex), including stationary mobile homes that have had the wheels removed and are supported by foundation or blocking;
- b) a rental property, provided that the renters provide the Contractor with the property owner’s written permission for the property to receive Weatherization Services, and the property owner agrees in writing to not increase the rent for 12 months after completion of the Weatherization Services. A copy of the owner’s consent and written agreement must be provided to Contractor prior to performing the Weatherization Services. For rental properties, structurally attached appliances or systems (eg., evaporative cooler, water lines) are not eligible for the Program. Such appliances or systems are the responsibility of the property owner.

c) Upon review and approval by SRP, Contractor may engage in special projects that the Contractor believes will provide benefits to SRP customers and the community.

Special projects may include application of weatherization services to multi-unit housing structures, collaboration with previously weatherized or rehabilitated housing projects or other innovative programming. **Special project requests will be made by the Contractor to ACAA who will seek final approval from SRP**

- B. All Weatherization Services will be implemented by the Contractor in accordance with the Weatherization (WAP) rules as administered by the Governor's Office of Energy Policy (the "Energy Office") with the following exceptions:
 - 1. Weatherization Services will be limited to those that conserve primarily electric energy;
 - 2. General Repairs to membranes to stop roof leaks, repairs to or replacement of non-repairable window units, repairs to or replacement of non-repairable exterior doors, restoration or replacement of ceiling areas which cannot support ceiling insulation and restoration or replacement of floor areas over "crawl spaces" which are not structurally strong enough to remain part of a building "envelope" and other similar general repairs may be done as part of Weatherization Services, provided that the entire project per individual residence is cost effective and yields at least a 1.0 benefit to cost ratio using the WAP program manual.
- C. Health and Safety Repairs are an eligible expense as long as the repairs are related and required to perform the weatherization and impact the client's health and safety. Health and Safety repairs will follow the Arizona Governor's Office of Energy Policy Weatherization Assistance Program requirements.
- D. Repair/Replacement Services are an eligible expense as long as the repairs and/or replacements are related and required to perform the weatherization. Repair and replacement services will follow the Arizona Governor's Office of Energy Policy Weatherization Assistance Program requirements. This includes repairs or replacements of existing utility related electric appliances/systems. When repair costs would exceed replacement costs, or when an appliance would be inoperable or unsafe even with repairs, or when an appliance is of such a vintage that it is economical to replace with an energy efficient model in accordance with guidelines established by the Arizona Governor's Energy Office, then the item shall be replaced instead of repaired. Appliances eligible for Repair/Replacement expenditures are limited to air conditioners, heat pumps, evaporative coolers, refrigerators, and electric water heaters. The Allocation may not be used to provide for maintenance of these appliances/systems. Inspection of the repair or replacement after completion of the work is to be made by a Contractor representative.
- E. Program Coordination: Where possible, the Contractor will leverage SRP funds with other appropriate funding to achieve maximum cost effectiveness and expand the scope of Weatherization Services to be performed on each Qualified Home.
- F. Non-leveraged Program: The Contractor may provide services to clients when leveraging options are not available.

G. Program Implementation

1. The Contractor or designee will conduct the on-site energy audit and detailed inspection of the Qualified Home and appliances using current building science technologies, such as blower doors, duct blasters, flow hoods, infrared heat sensors; analysis of appliances using amp meters and refrigerant pressure gages, and will prepare a report that delineates any deficiencies (the "Assessment") and analyze cost effectiveness in accordance with the Arizona Governor's Office of Energy Policy Weatherization Assistance Program requirements.

2. The Contractor or designee will prioritize and provide the Weatherization Services for each Qualified Home based on cost effectiveness and will implement as many Weatherization Services on each Qualified Home. The maximum that may be spent per job may not exceed **\$6,000.00**, not including Program Delivery Expenditures, subject to the overall cap of the Allocation.

H. Program Reporting

1. Arizona Governor's Office of Energy Policy (AGOEP) Energy Office (EO) Data Base.

The Contractor will enter all household weatherization services leveraged with funds provided by AGOEP/EO into the web-based weatherization database administered by the AGOEP/EO.

2. Non-leveraged program data. Services provided to Qualified Homes not leveraged with AGOEP/EO funds will be entered into the Contractor's data systems and submitted with invoices to ACAA on a monthly basis.

3. Completed Work. Only completed weatherization jobs and associated program delivery expenditures will be submitted with invoices to ACAA in monthly reports.

4. All Program activities and program expense reports will be submitted to ACAA on a monthly basis **and due no later than the 21st of the following month**. Reports entered into the AGOEP/EO database will be included in the monthly report to ACAA and will include the AGOEP/EO job number.

L. Documentation.

The following client documentation will be kept on file in the Client file at the Contractor's offices and will be available for review by ACAA.

1. Client application form with appropriate documentation attached.

2. Energy assistance program fuel information release form indicating the energy supplier is SRP.

3. Documentation required by Section 2.A.2 with respect to a Qualified Home.

4. Household Characteristics Form.

5. Pressure Diagnostic Report (where applicable).

6. Combustion Safety Report (where applicable).

M. Program Monitoring

1. ACAA will provide monitoring of Program activities related to client intake, eligibility record keeping and other related Program administrative activities
2. AGOEP/EO is responsible for providing technical audits and job site monitoring which may include; property audit for work to be done, work in progress, quality of work and end-of-job review.

3. COMPENSATION/TAXES.

Based on availability of SRP funds, ACAA will reimburse Contractor for authorized expenditures in an amount not to exceed **\$20,705.71** for the Term of the contract. **The Contractor may use up to five percent (5%) of the allocation for Health and Safety and Repair/Replacements not to exceed \$986.00.** All funds must be expended by the end of the term of this agreement. Any change in allocation of funds to the Contractor will be for the sole purpose of utilizing the funds to the best advantage of the low income customers and will be done in consultation with SRP.

1. The “Authorized Expenditures” consist of the following:

a) Weatherization Expenditures. Expenditures for the Contractor’s direct costs of providing Weatherization Services, including:

- (i) Preparation and performance of the Assessment;
- (ii) analysis of appliances using amp meters and refrigerant pressure gages;
- (iii) visual inspection of the property;
- (iv) Contractor and labor;
- (v) materials;
- (vi) subcontract labor;
- (vii) general repairs and

b) Expenditures for Health and Safety Services.

c) Expenditures for Repair/Replacement Services.

d) Program Delivery Expenditures. Reasonable out-of-pocket costs incurred by the Contractor to provide Weatherization Services, Health and Safety Services, and Repair/Replacement Services to Clients that would not be incurred if those Services were not provided, including: vehicle mileage; tools; employee related expenses such as social security, Medicare, etc.; equipment rental; cost allocated shares of office and management expenses; expenses for technical training of field technicians.

2. The following limitations apply to the distribution of the Allocation among the Authorized Expenditures:

- a.) Weatherization, Health & Safety, Repair/Replacement Expenditure: A maximum of up to five percent (5%) of total allocation as indicated under Compensation/Taxes may be used for Health & Safety, Repair/Replacement services.
- b.) The total expenditures per household may not exceed \$6,000.
- c.) Program Delivery Expenditures: maximum of 20% of the combined Weatherization Expenditures, Health and Safety Expenditures, and Repair/Replacement Expenditures. Program Delivery Expenditures are funded from the allocation and are not in addition to the Allocation.

3. ACAA will review the Program expenditures and will process the invoice and make payment to the Contractor within 30 days of receipt of the invoice from the Contractor. Weatherization expenditures for items that are not within the scope of this Agreement or not covered by a pre-approved waiver will be disallowed and the invoice will be returned to the Contractor with the specific items highlighted. The Contractor may resubmit the invoice with further explanation for review by ACAA. Allowable expenditures will be reimbursed, or they will be disallowed and ineligible for reimbursement.

4. The Contractor will send monthly invoices to:
Arizona Community Action Association
Executive Director or Energy Program Manager
2700 N 3rd Street, Suite 3040
Phoenix, AZ 85004

5. Each invoice shall include itemized expenditures by SRP Client account number broken into the following categories: Weatherization Expenditures and Program Delivery costs.

6. As between ACAA and the Contractor, the Contractor shall be responsible for any taxes that may be levied or imposed upon the transactions contemplated by this Agreement.

4. GENERAL TERMS AND CONDITIONS.

A. Warranties.

- 1. Contractor's Warranties. The Contractor warrants that the Services shall:
 - (a) be performed and completed in a thorough, safe and workmanlike manner;
 - (b) be free from defects in design, workmanship, and title;
 - (c) otherwise conform to this Agreement;
 - (d) be of the standard and quality generally recognized and accepted within its industry or profession throughout the United States;
 - (e) be performed in compliance with all applicable laws, rules, regulations, codes, standards, ordinances and orders

of regulatory authorities having jurisdiction over the activities contemplated by this Agreement.

2. **Disclaimer of Warranties by ACAA.** ACAA is only providing funding to the Contractor to enable it to afford and provide the Services. ACAA is not involved in the selection or implementation of the Program. Accordingly, all warranties of any kind or nature are hereby disclaimed by ACAA whether statutory, express or implied, including, without limitation, the warranty of merchantability, fitness for purpose or arising from course of dealing or usage of trade. The total cumulative liability of ACAA for all claims of any kind arising from or relating to this Agreement, whether such claims are based on contract, warranty, tort (including negligence), strict liability, contribution or otherwise, shall not exceed the unpaid portion of the contract price.
- B. **Independent Contractor.** The Parties will act as independent contractors and neither Party will act as agent for or partner of the other Party for any purpose whatsoever, and the employees of one will not be deemed employees of the other. Nothing in this Agreement will grant to either Party, the right to make commitments of any kind for or on behalf of the other Party without prior written consent of the other Party.
 - C. **Limitation of Liability.** Neither Party, nor its respective officers, directors, employees, agents, advisors, representatives, affiliates, or successor or assigns shall be liable to the other Party for any indirect, consequential, special, punitive or exemplary damages for any actions resulting from or arising out of this Agreement, whether based on contract, tort (including, but not limited to, negligence), strict liability, professional liability, contribution, or otherwise, provided, however, that this limitation of liability shall not apply to the extent: (a) that ACAA is entitled to indemnification from the Contractor as a result of a third party action as set forth in Section 4.D, Indemnification, or (b) losses arise from a breach of Contractor's obligations of confidentiality under Section 4.F, Confidentiality and Advertising.
 - D. **Indemnification.** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless ACAA and its officers, directors, employees, agents, advisors, representatives, and affiliates (collectively, an "ACAA Indemnitee") for, from and against any and all liabilities, losses, damages, fines, penalties, and costs and expenses of any kind or nature, whether or not covered by insurance, including reasonable attorneys' fees and expenses, that any ACAA Indemnitee may incur in connection with any claim, action, dispute, demand, or right of action, whether in law or in equity, of every kind and character arising out of, or resulting from (either directly or indirectly): (a) any bodily injury, including death, to any person, or any damage or destruction of any tangible property, to the extent caused by any willful, wanton or reckless misconduct or any negligent or intentional act or omission (including acts or

omissions resulting in strict liability) of Contractor, its officers, employees, agents (including, any contractors or subcontractors of the Contractor), and suppliers; or (b) any actual or alleged infringement, misuse, derogation, or violation of any third party intellectual property. If a third party asserts a claim against an ACAA Indemnitee, the ACAA Indemnitee will give written notice to the Contractor promptly after the ACAA Indemnitee has actual knowledge of any claim as to which indemnity may be sought. The failure to give notice of the claim as required by the preceding sentence will not relieve the Contractor of its indemnification obligations except to the extent that the Contractor is materially damaged as a result of such failure. The ACAA Indemnitee will permit the Contractor (at the expense of the Contractor) to assume the defense of any claim or any litigation resulting therefrom, provided that (a) the counsel for the Contractor who conducts the defense of such claim or litigation is reasonably satisfactory to the ACAA Indemnitee, and (b) the ACAA Indemnitee may participate in such defense at their own expense. If the ACAA Indemnitee determines in good faith that the conduct of the defense of any claim might adversely affect any ACAA Indemnitee's ability to conduct its business, or that the ACAA Indemnitee may have available to it one or more legal defenses that are different from, additional to, or inconsistent with those that may be available to the Contractor, the ACAA Indemnitee will have the right to participate in the defense of such action at the Contractor's expense. Neither the Contractor nor the ACAA Indemnitee may settle or compromise any claim without the prior written consent of the other party, which consent shall not be unreasonably withheld. The ACAA Indemnitee will have the right to defend any claim, at the Contractor's expense, if the Contractor does not undertake the defense of the claim. In any event, the Contractor and the ACAA Indemnitee will cooperate in the defense of any claim and the records of each will be available to the other with respect to such defense.

E. Insurance Coverages. The Contractor shall provide and maintain the following insurance coverages, using forms and insurers acceptable to ACAA, and require its contractors and subcontractors to carry the same coverages:

1. Workers' Compensation and Employer's Liability insurance covering obligations imposed by federal, state, and local statutes with jurisdiction over the Contractor's (and any of its contractor's or subcontractor's) employees;
2. Commercial General Liability insurance with a combined single limit of Two Million Dollars (\$2,000,000) each occurrence for bodily injury and property damage. The policy shall cover bodily injury, property damage, personal injury, contractual liability, and products and completed operations;
3. Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of ONE Million Dollars (\$1,000,000) each occurrence with respect to the Contractor's (and any of its contractor's or subcontractor's) vehicles, whether owned, hired, or non-

owned, assigned to or used in connection with performance of the Weatherization services; and

All required policies, with the exception of the Worker's Compensation and Professional Errors and Omissions insurance, shall name ACAA as an additional insured. The policies shall stipulate that the insurance shall be primary insurance and that any insurance carried by ACAA shall not be contributory insurance. The Contractor and its insurers providing the required coverages shall waive all rights of recovery against ACAA, and their directors, officers, employees, and agents. In the event the Contractor purchases insurance policies required by this Section that are not occurrence based policies, Contractor shall either (a) maintain claims made policies for at least 3 years following termination of this Agreement, or (b) obtain extended discovery periods for any claims made policies for at least 3 years following termination of this Agreement. Further, all policies required by this Section, except for Workers' Compensation and Professional Errors and Omissions Insurance, shall contain a severability of interest provision, and shall not contain any commutation clause or any other provision that limits third party actions over claims. Upon ACAA' request, the Contractor shall provide documentary evidence in a form and content acceptable to ACAA, confirming to its satisfaction that the required insurance coverages have been obtained and will remain in effect as required by this Section.

- F. Confidentiality and Advertising. All nonpublic information that ACAA provides to the Contractor or that the Contractor acquires from any source in connection with this Agreement shall be deemed to be ACAA' confidential information ("ACAA Confidential Information"). ACAA Confidential Information includes, but is not limited to: (a) Client specific information, including Client's utility bill information history; (b) any reports, specifications, know-how, strategies or technical data, processes, business documents or information, market research or other data, client or client lists, and all other information concerning the business and affairs of ACAA that are owned, used, or possessed by or for the benefit of ACAA; (c) ACAA intellectual property; and (d) ACAA confidential information or materials obtained by the Contractor from a third party in connection with performance of its obligations under this Agreement.

The Contractor shall not make copies, reproductions, abstracts or excerpts of the ACAA Confidential Information in whole or in part, except as authorized by ACAA. All copies, reproductions, excerpts or abstracts are deemed to be ACAA Confidential Information to the same extent as any originals. Upon ACAA' request at any time or upon the expiration of the Term, the Contractor shall promptly return to ACAA all ACAA Confidential Information and all copies thereof or other physical embodiments of the ACAA Confidential Information.

The Contractor agrees that any and all of the ACAA Confidential Information shall be maintained in confidence by the Contractor indefinitely. ACAA Confidential Information may not be disclosed by the Contractor to any person

other than the Contractor's personnel, employees or agents who require knowledge of the ACAA Confidential Information in order to perform its obligations under this Agreement. The Contractor further agrees that such ACAA Confidential Information shall be used solely in connection with the Contractor's performance of its obligations hereunder, and for no other purpose, and that all persons to whom the Contractor discloses the ACAA Confidential Information shall be advised of its confidential nature and of the Contractor's obligations of confidentiality and non-use under this Agreement. The Contractor shall be responsible for any disclosure or use of ACAA Confidential Information by persons to whom Contractor provided the ACAA Confidential Information that is not in accordance with this Agreement.

The name of ACAA or any of its affiliates shall not be used in any advertising or other promotional context by the Contractor or its contractors or subcontractors without the prior written consent of ACAA (which may be withheld by ACAA in its sole discretion).

- G. **Dispute Resolution/Attorneys Fees.** If a dispute arises concerning this Agreement, a meeting of the Parties shall be held within 10 business days after either Party gives the other Party written notice of the dispute (the "Dispute Notice"). The Dispute Notice shall set forth in reasonable detail the aggrieved Party's position and its proposal for resolution of the dispute. A representative of each Party who has authority to resolve the dispute shall be in attendance at all meetings. If the dispute is not resolved within 30 calendar days after the first meeting of the Parties, either Party is free to use any other available remedy, including litigation. The Dispute Notice and 30-day discussion period are conditions precedent to each Party's right to resort to any other method. A Party's failure to comply with this Section shall entitle the other Party to recover its costs and reasonable attorney's fees in any judicial proceedings that circumvent this dispute resolution provision. The prevailing Party in any proceedings instituted by either Party regarding a dispute concerning this Agreement shall be entitled to recover its reasonable attorney's fees, costs, and expenses.
- H. **Severability.** If any term or condition of this Agreement is held to be invalid, void, or otherwise unenforceable by any court of competent jurisdiction, that holding shall not affect the validity or enforceability of any other term or condition of this Agreement, unless enforcing the balance of this Agreement would deprive either party of a fundamental benefit of its bargain.
- I. **Disclaimer of Third Party Beneficiaries.** There are no persons or entities other than those who are signatory to this Agreement that are intended to be benefited by the terms contained herein and except to the extent a person or entity is entitled to indemnification pursuant to Section 4.D, all third party beneficiaries are hereby disclaimed.

- J. Survival. Termination of this Agreement shall not relieve either Party of any obligation under this Agreement which expressly or by implication survives termination of this Agreement, including its obligations under the following section headings: Insurance Coverages, Indemnification, Limitation of Liability, Warranties, Records and Auditing, Confidentiality and Advertising, Governing Law, Dispute Resolution/Attorney's Fees.
- K. Entire Agreement. This Agreement contains the final and complete agreement between the Parties for performance of the Services specified herein and supersedes all prior and contemporaneous conduct, agreements, statements, representations, negotiations, course of conduct, course of dealing, and communications pertaining to those Services, whether written or oral.
- L. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona and of the United States without giving effect to the doctrine of conflict of laws. This Agreement shall be deemed made and entered into in Maricopa County, Arizona. Any suit to enforce this Agreement shall be instituted only in the Superior Court of Maricopa County, Arizona, or the Federal District Court for the District of Arizona, and such Courts shall have the exclusive jurisdiction.
- M. Preservation of Rights. The Parties further agree that this Agreement shall not in any way be deemed a waiver, abrogation, impairment or amendment of any other agreement between the Contractor and ACAA, including but not limited to (i) lease(s) entered into by ACAA, either alone or as a co-tenant with others, and the Contractor, and (ii) federal grant(s) of rights-of-way issued to ACAA, either alone or as a co-tenant with others, by the United States. Except as expressly provided in this Agreement, this Agreement and the actions of the Parties contemplated under such Agreement are not intended, nor shall they be deemed, to constitute any waiver, consent or admission with respect to the existence or lack of regulatory, taxing, or adjudicatory authority or jurisdiction of the Contractor over ACAA.
- N. Notices and Designated Representatives. All notices required to be given by this Agreement will be given in person, by certified United States Mail, postage prepaid, return receipt requested, electronic mail (confirmed by return receipt) or by telecopier (confirmed by the mailing of the original in the manner as above mentioned). All notices shall be deemed given when received. Notices shall be directed to the Parties as follows:

If to ACAA:

Arizona Community Action Agency
2700 N. Third Street, #3040
Phoenix, AZ 85004
Designated Representative:
Ms. Cynthia Zwick
Executive Director
Phone: (602) 604-0640
Fax: (602) 604-0644
E-mail: czwick@azcaa.org

If to Contractor:

Gila County Community Action Program
5515 S. Apache Avenue, Suite 200
Globe, Arizona 85501
Designated Representative
Malissa Buzan, Program Manager
Phone: (928) 402-8693
Fax: (928) 425-9468
Email: Mbuzan@co.gila.az.us

Notices shall be effective: (a) on the date delivered by personal delivery, facsimile, or electronic mail; (b) three (3) business days following the date deposited in the United States mail; or (c) the next business day following delivery to a reputable overnight delivery service. Notices and communications shall be delivered or mailed to the Parties' designated representatives named above. Designated representatives of either Party may be changed at any time upon providing the other Party prior written notice of such change.

- O. Assignment. Neither Party will assign, transfer or otherwise dispose of its rights or obligations under this Agreement or any interest therein, without the other Party's prior written consent, which will not be unreasonably withheld or delayed.
- P. Amendments and Modifications. This Agreement can be modified or rescinded only by a writing signed by both parties or their duly authorized agents. No course of dealing or oral changes between the parties will be effective or legally binding as an amendment to this Agreement.
- Q. Records and Auditing. Contractor shall maintain accurate and complete records relating to its performance of this Agreement, including accounting records in support of all billings to Company. These records shall be retained by Contractor and be reasonably available for Company's inspection and audit for 4 years after completion or termination of this Agreement.
- R. Waiver. A Party's failure or delay in enforcing the terms and conditions of this Agreement or in insisting upon strict performance of any of the other Party's obligations shall not be interpreted as a waiver thereof. Waiver of any provision of this Agreement by either Party shall only be effective if in writing and shall not be interpreted as a waiver of any subsequent breach or failure under the same or any other provision of this Agreement. No conduct, statement, course of conduct course of dealing, oral expression, or other action shall be construed as a waiver.

- S. Waiver of Jury Trial. THE PARTIES WAIVE TRIAL BY JURY AND AGREE THAT ANY ACTION TO ENFORCE THIS AGREEMENT SHALL BE TO THE JUDGE WITHOUT A JURY.
- T. Legal Arizona Workers Act Compliance
Firm hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Firm's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Firm shall further ensure that each subcontractor who performs any work for Firm under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Firm and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Firm's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Firm to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Firm shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to County approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

Firm shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form: "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Firm. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Firm's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Firm shall be entitled to an extension of time, but not costs.

- U. **Anti-Terrorism Warranty**
Pursuant to **A.R.S. §35-397** the Firm certifies that it does not have scrutinized business operations in Iran or Sudan and that they are in compliance with the Export Administration Act and not on the Excluded Parties List.

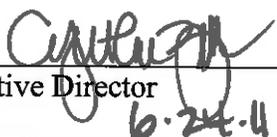
- V. **Cancellation**
This agreement is subject to cancellation pursuant to **A.R.S. § 38-511**.

All documents referred to in this Agreement are made a part hereof as though fully set forth herein. EXECUTED as of the latest date below ("Effective Date").

CONTRACTOR
Gila County Board of Supervisors

Arizona Community Action Association,
an Arizona nonprofit corporation

Chair, Gila County Board of Supervisors



Executive Director

Date

6.24.11

Date

Approved as to Form:

Chief Deputy County Attorney

Date

Address:
5515 S. Apache Avenue, Suite 200
Globe, Arizona 85501

Address:
2700 N. 3rd Street, Suite 3040
Phoenix, Arizona 85004
Phone: (602) 604-0640
Fax No. (602) 604-0644
Email: cswick@azcaa.org